TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, [redacted] [illegible]

No. [redacted] 245

THE STATE OF MINNESOTA, PETITIONER,

vs.

FIRST NATIONAL BANK OF ST. PAUL.

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF MINNESOTA

PETITION FOR CERTIORARI FILED [illegible]

CERTIORARI GRANTED [illegible]

([illegible])

(31,543)

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1925

No. 820

THE STATE OF MINNESOTA, PETITIONER,

vs.

FIRST NATIONAL BANK OF ST. PAUL

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF MINNESOTA

INDEX

JUDD & DETWEILER (INC.), PRINTERS, WASHINGTON, D. C., JANUARY 14, 1926

TRANSCRIPT OF RECORD

SUPREME COURT of the UNITED STATES

OCTOBER TERM, 1925

STATE OF MINNESOTA,

Petitioner,

—vs—

FIRST NATIONAL BANK OF ST. PAUL,

Respondent.

ON PETITION FOR WRIT OF CERTIORARI DIRECTED TO THE SUPREME COURT OF MINNESOTA

CITATION.

The State of Minnesota to the Defendant Above Named:

WHEREAS, The County Auditor of said County has, on the 16th DAY OF AUGUST, A. D. 1922, filed with the Clerk of said Court a copy of the duly revised list of delin-

quent taxes upon personal property, for the year 1921 according to the provisions of the statutes in such cases made and provided.

AND WHEREAS, the sum of $179,639.48 including penalty provided by law, appears upon said copy of the revised list as the taxes duly assessed against you, for personal property, for the year 1921 and that the same are due and delinquent; you are hereby cited to be and appear before the District Court aforesaid, at the next general term of said Court, commencing on the 2nd day of October, A. D. 1922 at 10 o'clock in the forenoon of that day, at the Court House in the City of St. Paul, in said County, then and there to show cause, if any there be, why you should not pay such taxes and penalty, and if you shall fail to pay said taxes, penalty and all the accrued costs thereon to the Sheriff of said Ramsey County, before the first day of said term of Court, or upon said first day of said term fail to show sufficient cause for said non-payment of said taxes, and all costs as aforesaid, judgment will be entered against you for said amount of said taxes, together with costs as aforesaid and disbursements.

Witness, The Honorable,

WILLIAM LOUIS KELLY,

Judge of said Court, and the seal of said Court, at St. Paul, in said County, this 24th day of August, A. D. 1922.

N. C. ROBINSON, Clerk.

By Charles J. Yarusso, Deputy Clerk.

(SEAL)

STATE OF MINNESOTA, DISTRICT COURT,

County of Ramsey. Second Judicial District.

THE STATE OF MINNESOTA,

Against

FIRST NATIONAL BANK,

Defendant.

CITATION.

The State of Minnesota to the Defendant Above Named:

WHEREAS, The County Auditor of said County has, on the 11th DAY OF AUGUST, A. D. 1923, filed with the Clerk of said Court a copy of the duly revised list of delinquent taxes upon personal property, for the year 1922 according to the provisions of the statutes in such cases made and provided.

AND WHEREAS, the sum of $176,650.39 including penalty provided by law, appears upon said copy of the revised list as the taxes duly assessed against you, for personal property, for the year 1922 and that the same are due and delinquent; you are hereby cited to be and appear before the District Court aforesaid, at the next general term of said Court, commencing on the 1st day of October, A. D. 1923 at 10 o'clock in the forenoon of that day, at the Court House in the City of St. Paul, in said County, then and there to show cause, if any there be, why you should not pay such taxes and penalty, and if you shall fail to pay said taxes, penalty and all the accrued costs thereon to the Sheriff of

said Ramsey County, before the first day of said term of Court, or upon said first day of said term fail to show sufficient cause for said non-payment of said taxes, and all costs as aforesaid, judgment will be entered against you for said amount of said taxes, together with costs as aforesaid and disbursements.

Witness, The Honorable,

OLIN B. LEWIS,

Judge of said Court, and the seal of said Court, at St. Paul, in said County, this 20th day of August, A. D. 1923.

N. C. ROBINSON, Clerk.

By B. E. Harman, Deputy Clerk.

(SEAL)

(Title of Cause.)

AMENDED ANSWER.

The above named defendant, The First National Bank of St. Paul, Minnesota, for its amended answer to the citation issued in the above entitled matter, and for cause why it should not pay the taxes and penalties described in said citation and demanded and attempted to be collected from it by the tax officers of the State of Minnesota and County of Ramsey, respectfully states and shows:

I.

That it is a national banking association, duly organized, created and existing under and pursuant to the national banking laws of the United States, and located in the

State of Minnesota, and having its principle office in the City of St. Paul, Minnesota, and, except as otherwise specifically provided in and by the Act of Congress, entirely and exclusively regulated, governed and controlled by the laws of the United States, in that behalf enacted.

II.

That, as such national banking association, it is an instrumentality and agent of the United States, and free from the control of the State of Minnesota, except as provided by the laws of the United States; and said State of Minnesota and each of the Counties, School Districts, Townships, Villages, Cities and Municipalities thereof are without power or authority to levy, assess or impose any tax upon the defendant, except as authorized by the laws of the United States.

III.

That the sole and only authority which the State of Minnesota or any of its political subdivisions or instrumentalities has to levy, assess or collect taxes from the defendant, or upon its shares of stock in the hands of individuals, is found in the provisions of the Act of Congress of June 3rd, 1864, as amended by the Act of Congress of February 10, 1868, the same being Section 5219 of the Revised Statutes of the United States, reading as follows:

"Nothing herein shall prevent all the shares in any association from being included in the valuation of the personal property of the owner or holder of such shares, in assessing taxes imposed by authority of the State within which the Association is located; but the legislature of each state may determine and direct the manner and place of taxing all the shares of national banking associations located within the state, subject only to two restrictions, that

the taxation shall not be at a greater rate than is assessed upon other money capital in the hands of individual citizens of said state, and that the shares of any national banking association owned by non-residents of any states shall be taxed in a city or town where the bank is located, and not elsewhere. Nothing herein shall be construed to exempt real property of associations from either state, county or municipal taxes to the same extent, according to its value as other real property is taxed."

IV.

That on the 1st day of May, in the year 1921, there was in the hands of, and owned by, individual citizens of the State of Minnesota and residents of said County of Ramsey, money capital aggregating at least $84,093,488.00, and in the State of Minnesota there was, upon said date and during the year 1921, money capital in the hands of individual citizens of said State amounting to at least $425,745,839.00—all of which said money and capital came into competition with the defendant and the other national banks in the State of Minnesota, and elsewhere, in the carrying on and conduct of their respective business, and into competition with the money of the shareholders of the defendant invested in the capital stock of the defendant association.

V.

That said money capital so in the hands of individuals was taxed by the State of Minnesota and the Counties, Cities, Villages, Townships and School Districts thereof as money and credits for the said year 1921, pursuant to the provisions of Chapter 285 of the Laws of the State of Minnesota for the year 1911, as amended by Chapter 129 of the Laws of the State of Minnesota for the year 1917, and

that the total and aggregate rate of taxation levied, assessed and collected upon said money and credits so in the hands of individual citizens of the State of Minnesota for all purposes was three mills on each dollar of the fair cash value of said property.

VI.

That in addition to the property above mentioned, there was on the 1st day of May, 1921, a large amount of money capital in the hands and belonging to individual citizens of the County of Ramsey and State of Minnesota, aggregating many millions of dollars, which was invested in and represented by loans and debts secured by mortgages on real estate in said County of Ramsey, as the word mortgages is defined by Section 2301 of the General Statutes of 1913, and acts amendatory thereof; and there was also in the State of Minnesota on the 1st day of May, 1921, a large amount of money capital in the hands of and belonging to the individual residents and citizens of said State, aggregating many more millions of dollars, which was invested in and represented by debts and loans secured by mortgages on real estate in said State and outside of said Ramsey County, and upon all of said money capital there had been levied, assessed and collected, taxes at the rate prescribed and fixed by Section 2302 of the General Statutes of 1913, as amended by Chapter 73 of the laws of Minnesota for the year 1917 and Chapter 445 of the Laws of the State of Minnesota for the year 1921; and that the amount so paid for taxes on said property included the tax thereon for the year 1921 and other years; that all of said money capital came into competition with the national banks in the State of Minnesota and elsewhere, and the defendant and other banks of like nature in carrying on their respective business, and into competition with the money of the shareholders

of this defendant invested in the shares of its capital stock, and that the tax so imposed and collected upon said property was at a much lower rate than is sought to be imposed and collected upon the shares of stock of this defendant in this proceeding.

VII.

That on the 1st day of May, 1921, the aggregate par value of the shares of stock of the defendant association was \$3,000,000.00, and said association, upon said date, had on hand a surplus of \$2,000,000.00 and undivided profits amounting to \$1,371,847.48, and other funds amounting to \$277,958.37, making a total of \$6,649,805.85, as the actual cash value of its shares of stock.

That its real estate upon said date was of the value of \$647,587.84, leaving, exclusive of real estate, as the aggregate value of the shares of stock of said association, \$6,002,-218.01, upon which a tax at the rate of three mills would have produced an aggregate of \$18,006.65, or a much smaller amount had the rate of taxation thereon been as provided by Section 2303, General Statutes 1913, as amended by Chapter 73, Laws of Minnesota for 1917 and Chapter 445, Laws of Minnesota for 1921.

VIII.

That, notwithstanding that fact, said tax authorities of the State of Minnesota added some amounts to said values as above set forth, and, finally taking forty per cent of the total so arrived at, found, as the basis for the taxation of said shares of stock for the year 1922, the sum of \$2,437,-442.00, upon which amount, assuming to act under the authority of Chapter 416, Laws of Minnesota for 1921, said tax authorities levied, entered and extended an assessment

at the rate of 67 mills on each dollar thereof, giving as the amount of such tax, $163,308.61, which is the tax with penalties attached now claimed to be the lawful tax in the citation and proceeding above entitled, which said proceeding is void and of no effect.

IX.

That among the assets of nearly, if not all, of the state and national banks operating in the State of Minnesota, there was on the 1st day of May, 1921, a large amount of the obligations of the United States of America, and the method provided by said Chapter 416, Laws of 1921 for the respective taxation of shares of stock of national banks and of the money capital of banks and mortgage loan companies organized under the laws of the State of Minnesota, will result in an unfair and unjust discrimination against the shareholders of the national banks in the State of Minnesota.

X.

That Chapter 416, Laws of Minnesota, for 1921, as to this defendant and its shareholders, is invalid, null and void, because it is repugnant to the Constitution and laws of the United States. That its enforcement as to defendant and its shareholders is beyond the power and authority of the State of Minnesota. That the same is void and of no effect, and the enforcement of the same and the collection of said tax attempted to be assessed would violate the Constitution and laws of the United States, and would deprive this defendant and its shareholders of the equal protection of the law, and would deprive this defendant and its shareholders of their property without due process of law.

WHEREFORE, this defendant prays that the attempted levy, assessment and extention of said tax be cancelled, annulled and set aside, and that plaintiff take nothing by this action, and that defendant have judgment for its costs and disbursements.

O'Brien, Stone, Horn & Stringer,
Attorneys for Defendant,
1116 Pioneer Building,
St. Paul, Minnesota.

STATE OF MINNESOTA,
County of Ramsey.—ss.

Otto M. Nelson, being duly sworn, says that he is one of the officers, to-wit: the Vice President of the defendant in the above entitled action; that he knows the contents of the foregoing amended answer, and that the allegations thereof are true, except as to those matters therein stated on information and belief, and as to those matters, he believes them to be true.

OTTO M. NELSON.

Subscribed and sworn to before me this 1st day of June, 1923.

McNEIL V. SEYMOUR,
Notary Public, Ramsey County Minn.

My commission expires August 21, 1928.

(SEAL)

(Title of Cause.)

ANSWER.

The above named defendant, The First National Bank of St. Paul, Minnesota, for its answer to the citation issued in the above entitled matter, for collection of personal property tax for year 1922, and for cause why it should not pay the taxes and penalties described in said citation and demanded and attempted to be collected from it by the tax officers of the State of Minnesota and County of Ramsey, respectfully states and shows:

I.

That it is a national banking association, duly organized, created and existing under and pursuant to the national banking laws of the United States, and located in the State of Minnesota, and having its principle office in the City of St. Paul, Minnesota, and, except as otherwise specifically provided in and by the Acts of Congress, entirely and exclusively regulated, governed and controlled by the laws of the United States, in that behalf enacted.

II.

That, as such national banking association, it is an instrumentality and agent of the United States, and free from the control of the State of Minnesota, except as provided by the laws of the United States; and said State of Minnesota and each of the Counties, School Districts, Townships, Villages, Cities and Municipalities thereof are without power or authority to levy, assess or impose any tax upon the defendant, except as authorized by the laws of the United States.

III.

That the sole and only authority which the State of Minnesota or any of its political subdivisions or instrumentalities had to levy, assess or collect taxes from the defendant, or upon its shares of stock in the hands of individuals, is found in the provisions of the Act of Congress of June 3rd, 1864, as amended by the Act of Congress of February 10, 1868, the same being Section 5219 of the Revised Statutes of the United States, reading as follows:

"Nothing herein shall prevent all the shares in any association from being included in the valuation of the personal property of the owner or holder of such shares, in assessing taxes imposed by authority of the State within which the Association is located; but the legislature of each state may determine and direct the manner and place of taxing all the shares of national banking associations located within the state, subject only to two restrictions, that the taxation shall not be at a greater rate than is assessed upon other money capital in the hands of individual citizens of said state, and that the shares of any national banking association owned by non-residents of any state shall be taxed in a city or town where the bank is located, and not elsewhere. Nothing herein shall be construed to exempt real property of associations from either state, county or municipal taxes to the same extent, according to its value, as other real property is taxed."

IV.

That on the 1st day of May, in the year 1922, there was in the hands of, and owned by, individual citizens of the State of Minnesota and residents of said County of Ramsey, money capital aggregating at least $83,796,840.00, and in

the State of Minnesota there was, upon said date and during the year 1922, money capital in the hands of individual citizens of said State amounting to at least $400,688,948.00, all of which said money and capital came into competition with the defendant and the other national banks in the State of Minnesota, and elsewhere, in the carrying on and conduct of their respective business, and into competition with the money of the shareholders of the defendant invested in the capital stock of the defendant association.

V.

That said money capital so in the hands of individuals was taxed by the State of Minnesota and the Counties, Cities, Villages, Townships and School Districts thereof as money, and credits for the said year 1922, pursuant to the provisions of Chapter 285 of the Laws of the State of Minnesota for the year 1911, as amended by Chapter 129 of the Laws of the State of Minnesota for the year 1917, and that the total and aggregate rate of taxation levied, assessed and collected upon said money and credits so in the hands of individual citizens of the State of Minnesota for all purposes was three mills on each dollar of the fair cash value of said property.

VI.

That in addition to the property above mentioned, there was on the 1st day of May, 1922, a large amount of money capital in the hands and belonging to individual citizens of the County of Ramsey and State of Minnesota, aggregating many millions of dollars, which was invested in and represented by loans and debts secured by mortgages on real estate in said County of Ramsey, as the word mortgages is defined by Section 2301 of the General Statutes of 1913, and

acts amendatory thereof; and there was also in the State of Minnesota on the 1st day of May, 1922, a large amount of money capital in the hands of and belonging to the individual residents and citizens of said State, aggregating many more millions of dollars, which was invested in and represented by debts and loans secured by mortgages on real estate in said State and outside of said Ramsey County, and upon all of said money capital there had been levied, assessed and collected, taxes at the rate prescribed and fixed by Section 2302 of the General Statutes of 1913, as amended by Chapter 73 of the laws of Minnesota for the year 1917 and Chapter 445 of the Laws of the State of Minnesota for the year 1921; and that the amount so paid for taxes on said property included the tax thereon for the year 1922 and other years; that all of said money capital came into competition with the national banks in the State of Minnesota and elsewhere, and the defendant and other banks of like nature in carrying on their respective business, and into competition with the money of the shareholders of this defendant invested in the shares of its capital stock, and that the tax so imposed and collected upon the shares of stock of this defendant in this proceeding.

VII.

That on the 1st day of May, 1922, the aggregate par value of the shares of stock of the defendant association was $3,000,000.00, and said association, upon said date, had on hand a surplus of $2,000,000.00 and undivided profits amounting to $1,394,585.04, and other funds amounting to $667,125.48, making a total of $7,061,710.52, as the actual cash value of its shares of stock.

That its real estate upon said date was of the value of $533,606.46, leaving, exclusive of real estate, as the aggre-

gate value of the shares of stock of said association, $6,528,-104.06, upon which a tax at the rate of three mills would have produced an aggregate of $18,584.31, or a much smaller amount had the rate of taxation thereon been as provided by Section 2302, General Statutes 1913, as amended by chapter 73, Laws of Minnesota for 1917 and chapter 445, Laws of Minnesota for 1921.

VIII.

That, notwithstanding that fact, said tax authorities of the State of Minnesota added some amounts to said values as above set forth, and, finally taking forty per cent. of the total so arrived at, found, as the basis for the taxation of said shares of stock for the year 1922 the sum of $2,611,-240.00, upon which amount, assuming to act under the authority of chapter 416, Laws of Minnesota for 1921, said tax authorities levied, entered and extended an assessment at the rate of 61½ mills on each dollar thereof, giving as the amount of such tax $160,591.26, which is the tax with penalties attached now claimed to be the lawful tax in the citation and proceeding above entitled, which said proceeding is void and of no effect.

IX.

That among the assets of nearly if not all of the state and national banks operating in the State of Minnesota, there was on the first day of May, 1922, a large amount of the obligations of the United States of America, and said defendant on that day was the owner of bonds and obligations of the United in excess of $11,000,000.00, and of bonds of the State of Minnesota and counties thereof in excess of $,360,000.00, and the method provided by said chapter 416,

Laws of 1921, for the respective taxation of shares of stock of national banks and of the money capital of banks and mortgage loan companies organized under the laws of the State of Minnesota, will result in an unfair and unjust discrimination against the shareholders of the national banks in the State of Minnesota.

X.

That chapter 416, Laws of Minnesota for 1921, as to this defendant and its shareholders is invalid, null and void, because it is repugnant to the Constitution and laws of the United States. That its enforcement as to defendant and its shareholders is beyond the power and authority of the State of Minnesota. That the same is void and of no effect, and the enforcement of the same and the collection of said tax attempted to be assessed would violate the Constitution and laws of the United States and would deprive this defendant and its shareholders of the equal protection of the law, and would deprive this defendant and its shareholders of their property without due process of law.

WHEREFORE, this defendant prays that the attempted levy, assessment and extention of said tax be cancelled, annulled and set aside, and that plaintiff take nothing by this action, and that defendant have judgment for its costs and disbursements.

O'BRIEN, HORN & STRINGER,

Attorneys for Defendant,

1116 Pioneer Building,

St. Paul, Minnesota.

STATE OF MINNESOTA,
County of Ramsey.—ss.

Otto M. Nelson, being duly sworn, did say that he is one of the officers, to-wit, the vice president of the defendant in the above entitled action; that he knows the contents of the foregoing answer, and that the allegations thereof are true, except as to matters therein stated on information and belief, and as to those matters he believes them to be true.

OTTO M. NELSON.

Subscribed and sworn to before me this 28th day of September, 1923.

A. E. HORN,
Notary Public, Ramsey County, Minnesota.
My commission expires Oct. 20, 1927.

(SEAL)

STATE OF MINNESOTA, DISTRICT COURT,
County of Ramsey. Second Judicial District.

146,399.

IN THE MATTER OF DELINQUENT PERSONAL PROPERTY TAX FOR THE YEAR 1921.

152,054.

IN THE MATTER OF DELINQUENT PERSONAL PROPERTY TAX FOR THE YEAR 1922.

These cases came on for hearing before Hon. Chas. Bechhoefer, J., without a jury, Monday afternoon, October

22, 1923, H. H. Peterson, Rollin L. Smith and Patrick J. Ryan appearing on behalf of the State, and O'Brien, Horn & Stringer appearing on behalf of defendant First National Bank of St. Paul.

Mr. O'Brien: There are two cases here, may it please the Court, in which the First National Bank of St. Paul is the defendant, and it is agreeable to try them together.

Mr. Ryan: It is agreeable to the State.

Mr. O'Brien: There is the Twin Cities National Bank in which we will stipulate that that case will abide the result found in the First National Bank case.

Mr. Kerr: There was a case following this, your Honor, involving identically the same questions, the 1922 tax, of the Wabash National Bank, and we have already stipulated that we may abide the event of the First National Bank case. I think the stipulation is on file.

Mr. Ryan: The State offers in evidence the delinquent personal property tax-list upon the clerk's file for the years 1921 and 1922, with particular reference to the assessment against the shareholders of the First National Bank.

The Court: I suggest that an excerpt of that part be obtained and placed in the record.

The State rests.

Mr. O'Brien: We offer the tax rate for Ramsey County, Minnesota, for 1921 and 1922.

Received without objection.

Mr. O'Brien: May it please the Court, there are several gentlemen here from Minneapolis, and I would like to have the privilege of putting them on the stand at this time so they will not be compelled to come back tomorrow.

WILLIAM J. STEVENSON,

sworn on behalf of defendant, testified:

By Mr. O'Brien:

Q. Will you give your full name?

A. William J. Stevenson.

Q. And where do you reside?

A. Minneapolis.

Q. Your business, Mr. Stevenson?

A. I am vice-president and trust officer of the Wells-Dickey Trust Company, director of the Wells-Dickey Company.

Q. That is a company organized at Minneapolis?

A. Yes, sir.

Q. It is an investment and trust company, is it?

A. There are two companies; the Wells-Dickey Company is the investment company and the Trust Company does a trust and banking business.

Q. The Wells-Dickey Company is an investment company?

A. Yes, sir.

Q. Under the laws of what state is the Wells-Dickey Company organized?

A. Minnesota.

Q. And what is the amount of its capital stock paid in?

A. Well, approximately $1,200,000.

Q. And where is that stock held?

A. Held almost entirely in Minneapolis.

Q. By whom?

A. By the people actively connected with the company, with a very few exceptions.

Q. What I want to know, if individual citizens of Minneapolis are stockholders in this Investment Company?

A. Yes, sir.

Q. And what is the business of Wells-Dickey?

A. Buying and selling securities of various kinds.

Q. What class of securities does that company deal in?

A. It has been dealing in mortgages and bonds. We are not dealing in mortgages now to any extent.

Q. Dealing in bonds?

A. Yes.

Q. When did you cease dealing in mortgages?

A. We quit about the first of 1923.

Q. You ceased purchasing mortgages, loaning money on mortgages?

A. Yes.

Q. And since that time and before that you dealt in bonds?

A. Yes, sir.

Q. Now, what do you mean by bonds? What character of bonds?

A. Well, two principle classes, corporation bonds and municipal bonds.

Q. Municipal bonds of the state of Minnesota?

A. And other states, and Dominion of Canada.

Q. Do you include in municipal bonds certificates of indebtedness or warrants?

A. Not warrants but certificates of indebtedness we do.

Q. Will you please describe in general the way in which you handle mortgages upon real estate?

A. Well, we make the original loan to the farmer usually through the bank in the locality where the farmer resides, then we close the loan in our Minneapolis office and sell it to some investors somewhere in the United States, usually, then we handle the collecting of the interest and principle from the farmer through the local bank.

Q. Could you give us a minimum amount of such mort-

gages which were in existence on the 1st of May, 1921, mortgages that had passed through your office and are still unpaid?

A. I could not at this time. I did not look up that matter.

Q. Could you give us any idea of the minimum amount?

A. Over $25,000,000.

Q. And what would you say as to the 1st of May, 1922?

A. It would be somewhat less, perhaps twenty million.

Q. And what proportion of that amount represented Minnesota real estate mortgages?

A. Practically none.

Q. None in Minnesota?

A. Not in those years and not of those that I have included in my figures. Our Minnesota mortgages practically all went to the Metropolitan Life Insurance Company of New York beginning with 1922. Prior to that time I do not think we got very many Minnesota mortgages, hardly any.

Q. Well, were there no Minnesota mortgages in May, 1921, still unpaid in Minnesota that had passed through your Investment Company?

A. Not worth mentioning.

Q. Most of those mortgages then were mortgages in other states?

A. Yes, sir.

Q. Now, can you give us the minimum amount of bonds purchased by the Wells-Dickey Company during the years 1921 and 1922?

A. I do not have that figure; I have the number that we sold to residents of Minnesota in 1921 and 1922.

Q. Well, give us that?

A. Over four million to residents of Minnesota in 1921, and double that much in 1922.

Q. And what bonds were those?

A. Those were all corporation bonds. Then of the municipal bonds, we have no very accurate way of telling the number of outside municipal bonds that were sold to residents of Minnesota. I can estimate that very closely, however. The bonds of municipalities outside of Minnesota, including Canada, and including bonds that we would buy on the market, about three million in each of those two years.

Q. Did those bonds include Minnesota bonds?

A. No, sir.

Q. Minnesota municipals?

A. No, sir.

Q. What can you say about Minnesota municipals?

A. I had that figure but I did not tax my mind with it because I assumed you didn't want that, but it would be not less than four million in each of those years of Minnesota municipals that were sold in Minnesota and outside of Minnesota.

Q. Now, state how long the Investment Company, Wells-Dickey Company, had been engaged purchasing and selling bonds in the manner you have described.

A. We have been in the bond business over twenty-five years.

Q. What would you estimate to be the average maturity of the bonds you spoke about, corporation bonds and municipal bonds?

A. Between eight and ten years.

Q. Now, assuming that in 1921 and 1922, in each of those years you had sold three million corporation bonds, and in each of those years four million Minnesota municipal bonds, if that amount of three million was multiplied by eight, would that give about the accumulation that there was in 1921?

A. If those were typical years—I couldn't say whether they were exactly normal or not, I would think that perhaps during the war we didn't sell quite so many.

Q. Will you give us your best idea as to whether forty-nine million would represent the amount of outstanding corporation and municipal bonds in the hands of Minnesota citizens which had been sold through the Wells-Dickey Investment Company on the 1st of May, 1921?

Mr. Ryan: I don't want to make any technical objection, but that is too speculative. It involves the supposition that those bonds, after having been sold in that manner, will remain in the hands of Minnesota investors.

Mr. O'Brien: I am frank to concede what Mr. Ryan suggests is true, that that may be reduced, but it is only by showing the aggregate dealings in this class of property that we can show as to whether or not the amount is substantial, so I think it is proper to go into it for what it is worth, it is not conclusive.

The Court: I think it would be well to take this testimony subject to the objection, and we can consider its value afterwards. I will take it subject to the objection.

Mr. Ryan: May that be understood as to all testimony, as to materiality and relevancy, that the State will not offer objection to each item but will argue the matter of its weight at the conclusion of the case.

The Court: Yes. On account of the mass of figures, it is quite important that it be done in that way.

Mr. O'Brien: Taken subject to the objection as to its materiality.

The Court: That will be understood.

Judge O'Brien, your question was as to Minnesota municipals sold in Minnesota?

Mr. O'Brien: Minnesota municipals sold in Minnesota and corporation bonds sold in Minnesota.

Witness: My testimony was as to foreign municipal bonds sold in Minnesota, not Minnesota municipals sold in Minnesota; that would be tax exempt any way. You probably didn't understand my answer.

Q. I thought that you said that you had those figures but you didn't charge your memory with them because you didn't suppose that would be required, but that at least it was not less than four million.

A. That is true, yes.

Q. I am talking of the figure four million for the municipals in each of those years and three million for the corporation sold in Minnesota; that would make a total of seven million sold in each of those years in Minnesota?

A. Well, I didn't say that the Minnesota municipals were sold in Minnesota.

The Court: In and out of Minnesota:

Q. What would you say were sold in Minnesota?

A. Over half.

Q. That would be two million. Were the corporation bonds sold in Minnesota, three million?

A. The figures that I gave you were of those sold in Minnesota including sales outside of Minnesota.

Q. That would be five million?

A. Yes.

Q. Now, would eight times five, forty million, be, in your judgment, a fair approximation of the amount of those securities outstanding in the hands of people in Minnesota?

A. No, I think that would be a little large, because I think those years were probably a little larger than our average year for eight years past.

Q. Will you give us your best judgment on that?

A. It would be more or less of a rough estimate. About thirty million.

Q. Those are securities sold through this one company?

A. Yes, sir. And then beside that, the foreign municipals sold in Minnesota that are taxable. I have not included those, bonds of Montana, North Dakota and Dominion of Canada, Iowa and Wisconsin, that were sold to residents of Minnesota. This thirty million is for all municipals in

or out of the state sold within Minnesota.

Q. That would be thirty million of corporation bonds of Minnesota corporations and two million of municipal bonds of Minnesota sold in Minnesota?

The Court: Corporation bonds issued in this state and municipal bonds issued in this state sold to citizens of Minnesota, sold within the state of Minnesota?

Mr. O'Brien: Yes, sir.

Witness: I didn't mean to be so understood. The corporation bonds are not necesarily Minnesota corporations, usually not; not five per cent of them would be Minnesota corporations. They would be bonds of outside corporations that were sold here.

Q. Such as what?

A. Such as public utility bonds from all over the middle west, or railroad bonds, or industrial bonds, and sometimes farm mortgage bonds.

The Court: That covers Minnesota municipals and corporate bonds?

Witness: Yes, sir, but not necessarily originating in Minnesota.

The Court: Sold to parties within the state.

Q. Does the Wells-Dickey Company deal in commercial acceptances?

A. No, sir.

Q. Or unsecured promissory notes?

A. No, sir.

Q. Now, the other corporation is the Trust Company and Bank?

A. Yes, sir.

Q. And what is the name of that corporation?

A. Wells-Dickey Trust Company.

Q. And you occupy the same position in that corporation as in the Wells-Dickey Company?

A. No, I am vice-president of that.

Q. And how long has that company been in existence?

A. Seven and a half years.

Q. What is the capital stock of the Trust Company?

A. Half a million.

Q. Does that company act as executor and administrator and trustee and agent for investors?

A. Yes, sir.

Q. Where is the stock of that company held?

A. That is owned by individuals resident of Minnesota without exception, and some of it is held by the Wells-Dickey Company.

Q. Can you give us the aggregate amount of trust property that is now held by that company?

A. No, I could not.

Q. Would you be willing to state a minimum amount?

A. No. In the first place, we do not carry our real estate at any value at all.

Q. Well, exclusive of real estate?

A. You mean as agent as well as in other fiduciary capacities?

Q. Well, or anything to separate them.

A. We keep all our agency and trust securities together in one control account.

Q. Give us the—

A. You mean on what day?

Q. What you consider its value or amount?

A. At this time?

Q. Yes.

A. Over seventeen million. That is not accurate but it is not less than that.

Q. What was it on May 1, 1921?

A. Between fourteen and fifteen million; not less than that.

Q. As a rule, who are the equitable owners of that property? That is, what class of persons are the equitable own-

ers of the property and the legal owners, of course, of the property which you hold as agent?

A. Well, individuals scattered all over the United States.

Q. Yes, individuals scattered all over the United States, but it is almost all the persons interested in the property that are individuals?

A. Almost exclusively, yes.

Q. And what proportion of those individuals are residents of the state of Minnesota?

A. Oh, a rough estimate would be 90 per cent.

Q. In what class of personal property are the funds belonging to trust estates of the agency accounts in this Trust Company invested?

A. In just as many classes as there are.

Q. If you receive stocks, you are authorized to continue to hold what you receive, I presume?

A. Yes, sir.

Q. Where you make an investment on behalf of the cestui que trust and authorize its security as prescribed by the state of Minnesota?

A. Sometimes what is permitted by the trust document itself.

Q. It depends upon the character of the trust?

A. Yes.

Q. What do you say with regard to the great proportion of that property being invested in mortgages and bonds, corporation bonds and municipal?

A. Well, I would think not less than three quarters of it was invested in bonds and mortgages of various kinds.

Q. Can you give us the minimum amount of the holdings of the Trust Company in United States Government bonds?

A. No, I do not know. You mean what the Trust Company own itself?

Q. What proportion of your capital is invested in United States Government bonds?

A. No, I don't know.

Q. Or in municipal bonds of the state of Minnesota?

A. I do not know that.

Q. Do each of these companies deal in United States Government bonds?

A. I think the Trust Company only deals in United States bonds over the counter, buying and selling from people who want to dispose of them or people who want to buy.

CROSS-EXAMINATION.

By Mr. Ryan:

Q. What are the general powers of the Wells-Dickey Company?

A. Buy and sell securities or real estate or act as agent or broker. There are a great many others but I think that covers most of it.

Q. Did your company in fact, on May 1, 1921, own any real estate, speaking now entirely of the Wells-Dickey Company, not the Trust Company?

A. I think they owned a few scattered pieces in Minnesota. Their outside real estate in North Dakota is owned by the Wells & Dickey Company, a North Dakota corporation, the stock of which belongs to Wells-Dickey Company.

Q. About what was the value of the real estate held by the company in its own name?

A. I couldn't tell you that.

Q. Couldn't give us any idea at all?

A. No. We don't deal in real estate. That might be just what we had acquired one way or another or mortgage foreclosures or something of that sort, where we bought it back from the investor.

Q. Was it important in amount in relation to capital?

A. I couldn't give you any figure at all on that.

Q. Can you tell us about how much of the capital stock

of the Wells & Dickey Company of North Dakota was owned by the Wells-Dickey Company?

A. I think practically all of it.

Q. About how much was that?

A. I don't know. That was all history when I went with the company.

Q. You don't know what the capital stock of the corporation was?

A. No. It is an inactive company. It merely holds North Dakota assets when we get them, that is all.

Q. Do you know about what the assets of the North Dakota company were?

A. No, I do not. It maintains no office, has no business.

Q. Does the Wells-Dickey Company own the stock of the Trust Company?

A. Yes.

Q. Do you know how much of the stock it owns?

A. No, I do not, but over half of it. It has the control.

Q. Do you know whether or not any of the stock of the Wells-Dickey Company is owned by corporations?

A. There might be some shares owned by corporations, I don't know; I doubt it, but there may be some. It would be a very negligible quantity, however.

Q. Do you know to what extent the company has invested in property other than real property and other than intangible property, whether it owns any personal property of a tangible nature, and if so, to what extent?

A. Nothing but our office equipment and perhaps some bonds or stocks that we may have bought that became unsalable, but our entire capital is used in the buying and selling of securities.

Q. You can't state what securities your company held on May 1, 1921, can you?

A. You mean the Wells-Dickey Company?

Q. Yes.

A. No, I couldn't.

Q. And could you state what bond securities your company held on May 1, 1922?

A. No. Our return to the assessor would be the best evidence of that.

Q. You can state, can you not, that on either of those dates, whatever you held consisted of bonds or mortgages other than as you have already described, that you held some shares of stock in the Wells & Dickey Company of North Dakota and some shares of stock in the Trust Company?

A. (No answer.)

Q. Now, all your capital was invested, as I understand, on both of those dates, in certain bonds and mortgages?

A. Very largely, yes.

Q. And you specified among the bonds and mortgages which you customarily bought, railroad bonds, industrial bonds and state or municipal bonds of Minnesota and elsewhere?

A. And public utility bonds.

Q. What do the public utility bonds consist of?

A. Why, bonds of various public utility companies all over the United States, but particularly in the middle west.

Q. By that you mean electric power companies, electric light companies?

A. Electric light companies and street railway companies, and water companies, heating companies.

Q. Do you think of any other type of public utility bonds that you are accustomed to deal with and which you might have had there on May 1, 1921 or 1922?

A. Telephone and telegraph bonds of public utilities. I don't know what we might have had on hand at that time. We might have had very few of some classes.

Q. You don't know how much of each?

A. No.

Q. But insofar as you had bonds, those were the types

of bonds that you have described as public utility bonds. Now, in addition to that, you had railroad bonds?

A. I don't know that we had any. We deal in them.

Q. You deal in them. If you did have any—I am speaking of the kind of bonds that you might by any possibility have had on those dates, since you can't state to us definitely what they were.

A. Yes.

Q. Now, what other bonds—municipal bonds, bonds issued in Minnesota or the adjoining states, any of the states of the union, and bonds issued by the public subdivisions of those states?

A. Yes, and foreign government bonds.

Q. Can you think of any other bonds that you might have had?

A. Yes; we might have had bonds of individuals.

Q. That is one of the things I am getting at. To what extent, if any, did you, during 1921 and 1922, have on May 1st of either of those years among your investments, any bonds issued by individuals?

A. Well, it would be impossible for me to tell what bonds we had in stock on any particular date. I can think of very few issues in either of those two years that were issued by individuals.

Q. What would be the maximum amount of bonds issued by individuals which you might have had at any time during 1921 and '22.

A. You mean resident in Minnesota or outside?

Q. Any place.

A. Well, I don't think of a single issue in either of those two years, but if there were any, I would say $50,000 would cover all of them, because they are always small issues.

Q. Now, whom do you sell these bonds to? To whom did it sell these bonds during those years?

A. We sell through our salesmen to individuals, some-

times to banks, sometimes to smaller dealers; sometimes we wholesale bonds to other dealers in other cities outside of Minnesota or inside of Minnesota.

Q. Most of your bonds are sold through your individuai salesmen, are they?

A. Yes, sir.

Q. Your salesmen are located in Minneapolis, St. Paul and othe cities throughout the state?

A. Well, Minneapolis is the head office, and most of the traveling salesmen travel from out of the Minneapolis office. We have a St. Paul office, and the salesmen work from there. We have a Great Falls, Montana, office, and we have a Chicago office; we have a Regina office and Saskatchewan.

Q. And salesmen travel out of each of those offices?

A. With the exception of the Regina office.

Q. And the salesmen do not confine their efforts to the cities which have been mentioned, but cover all of the territory generally embraced in the limits of those cities in the Northwest?

A. Well, they cover whatever territory we think is profitable to travel through. We have another branch office which I forgot to mention; that is the one at Duluth. Salesmen travel out of that office, too.

Q. Now, you say—take in 1921—you sold about four million dollars of corporation bonds to residents of Minnesota?

A. Yes, sir, not less than that, not less than four million.

Q. Can you state about what proportion of those four million dollars you sold to other dealers?

A. No, I couldn't, but if they were sold to dealers outside of Minnesota, that would not be included in that figure.

Q. You couldn't give us any fair estimate of the proportion of that four million dollars that went to those other dealers?

A. No. Our wholesaling is a minor part of our sales,

however, on corporation bonds, because other dealers can buy those corporation bonds from the syndicate just as well as we can.

Q. Can you state approximately what proportion of that four million dollars you sold to banks?

A. No, I couldn't. Banks do buy from our salesmen and then they resell to their local customers.

Q. You couldn't give us any idea as to what proportion of that whole they buy?

A. No.

Q. You can't give us any idea as to what proportion of the whole went to individuals?

A. No, I couldn't, but much the greater portion goes to individuals.

Q. Now, for 1922 can you give the proportion of it any more definitely than you have?

A. No, sir. I would say what I stated for 1922 for corporate bonds.

Q. You sold over eight million?

A. Yes, that is right.

Q. For 1921, as I recall your statement, you sold municipal bonds other than Minnesota Municipal bonds, to the extent of about three million dollars?

A. Within Minnesota.

Q. That was within Minnesota?

A. Yes.

Q. Can you state approximately how much of those bonds you sold to corporations and how much to individuals and how much to banks?

A. No; I wouldn't think we sold much of any to corporations, because they are long-time bonds, and banks do not buy long-time bonds for themselves. They would buy them to resell in their communities.

Q. You can't throw any further light on that, however?

A. No.

Q. As to Minnesota municipal bonds, you state that it is your impression that in 1921 you sold about four million dollars within and without the state?

A. Not less than that?

Q. And probably over half of those in Minnesota?

A. Yes.

Q. Can you give us any idea as to the relative proportion in which those were sold to individuals, to banks and corporations.

A. No, except that municipal bonds of all kinds, being tax exempt under the federal income tax law, are more in demand by the individual investor than they are by any corporation, because the corporation does not get the benefit of that exemption.

Q. Now, as to the Wells-Dickey Trust Company, I understood you to say that over half of the stock of that company was in the hands of the Wells-Dickey Company?

A. Yes, sir.

Q. Do you know whether any of the remaining stock is in the hands of corporations or was in the hands of corporations on May 1, 1921 or May 1, 1922?

A. None of it is owned by any corporation.

Q. Did the Trust Company own any real estate?

A. Yes, sir.

Q. Can you state approximately its value as of May 1, 1921?

A. $125,000.

Q. The same of 1922?

A. Yes, sir.

Q. Do you know anything of the amount of its capital invested in tangible personal property of any kind?

A. Except cash.

Q. Were its furniture and fixtures any appreciable amount?

A. No, not worth mentioning. I think I should say about

that stock of the Trust Company that is owned by Wells-Dickey Company, it stands in the name of individuals on the books of the Trust Company.

Q. It is actually owned by the corporation?

A. Yes.

Q. Now, when you say that your trust and agency funds —75 per cent you believe were invested in bonds and mortgages of various kinds. Can you tell us whether, on May 1, 1921, and again as of May 1, 1922, any of those funds were invested in bonds of individuals?

A. No, they were not, with the exception of a few farm land bonds, perhaps, that the individuals had bought from different people and had put into our hands in some capacity.

Q. But you don't specifically recall that there are or were any of such bonds?

A. It would be a negligible quantity.

Q. As to mortgages, those mortgages were scattered, some Minnesota mortgages and some mortgages in other states?

A. Yes, sir.

Q. And you can't give us the proportions?

A. No, I couldn't. I don't even know now what proportion of the fund was in mortgages.

By Mr. O'Brien:

Q. Did either of those companies loan money on collateral security?

A. The Trust Company does, yes, in the banking department.

Q. To what extent?

A. 100 per cent; that is, all of our loans are secured by collateral.

Q. Can you describe the collateral generally?

A. The collateral would be bonds very largely; once in a while, stock, market stock, market listed stock.

By Mr. Ryan:

Q. Your Trust Company operates to some extent as a bank, does it?

A. Yes, sir.

Q. You receive deposits?

A. Receive deposits.

CHARLES V. SMITH,

sworn on behalf of defendant, testified:

By Mr. O'Brien:

Q. Mr. Smith, what is your occupation?

A. I am vice-president and trust officer of the Minnesota Loan & Trust Company in Minneapolis.

Q. That company is located in Minneapolis?

A. It is.

Q. Under what state laws is it organized?

A. Minnesota.

Q. What is the amount of its capital stock?

A. A million dollars of capital and a million dollars of surplus.

Q. Any undivided profits?

A. My recollection is between three and four hundred thousand dollars.

Q. Where is the stock of that company held principally?

A. The directors of that company each own ten shares, or a thousand dollars, of its stock; the balance of the stock is held by trustees who hold the stock for the pro rata benefit of the stockholders of the Northwestern National Bank of Minneapolis.

Q. Do you know where the stockholders of the National Bank reside?

A. I should say that 90 per cent or more of the stockholders reside in Minneapolis.

Q. In this state?

A. Yes, sir.

Q. Does the Minnesota Loan & Trust Company receive deposits?

A. It does.

Q. Pay out money on checks?

A. It does.

Q. So that it does a banking business?

A. To the extent of receiving deposits. It doesn't do a commercial banking business. In lieu of commercial accommodations our company gives a small rate of interest on its deposits.

Q. Does that company act as trustee, as administrator, executor and agent and factor?

A. It does.

Q. It acts in each of those capacities?

A. Yes, sir.

Q. What is the minimum aggregate value of the personal property held by that company as trustee?

A. In our bookkeeping we carry our trust assets as including estates, trusts under wills, trusts under agreements, and guardianships. I can't give you the figure that you are asking, just for trusts under wills and agreements.

Q. Can you give us the aggregate figure for the accounts which you mentioned?

A. Yes, sir. Exclusive of real estate, they would run at this time, in the trust assets, approximately twenty-seven million dollars.

Q. What was that amount on May 1, 1921?

A. I haven't the figure on May 1, 1921. I have it at the end of the last previous year, 1922. On December 26, 1922, approximately twenty-four million dollars.

Q. How much did that increase the two years previous, the years 1921 and 1922?

A. In 1921, the trust assets, including real estate, was about twenty-six million dollars. Our real estate, ordinarily,

is approximately ten per cent of our total trust assets.

Q. Well now, from that can you say what you would consider was the minimum amount held, personal property, on the 1st of May, 1921?

A. Somewhat in excess of twenty-three million dollars.

Q. And in what class of securities was that money invested, those trust assets?

A. Mortgages, bonds, contracts for deeds, stocks, certificates of deposit, and miscellaneous assets, such as unsecured notes which we inherit the estates, and book accounts.

Q. Could you segregate those items?

A. I could at the present time.

Q. Well, do it for the present time?

A. At this time we have about $6,200,000 of mortgages or trust accounts, $9,700,000 of bonds, $500,000 of contracts for deeds, $8,500,000 of stocks, $9,000 of certificates of deposit, and a million dollars of miscellaneous.

Q. Of that miscellaneous, what portion are of unsecured notes?

A. I couldn't answer you.

Q. Will you state whether or not those proportions existed on and since May 1, 1921?

A. I believe that no item would vary as much as ten per cent from its proportion of those amounts through a period of the last two or three years.

Q. What class of persons are beneficiaries under the trusts and estates you have mentioned?

A. Generally individuals, some charities or corporations; charities are beneficiaries; sometimes a municipality, and we have one very substantial trust where the Minneapolis Charity of Fine Arts is the beneficiary.

Q. To what extent are individuals the beneficiaries?

A. Well, I should think that more than 90 per cent of our trusts are held for individuals.

Q. And that relation has prevailed on and since May 1, 1921?

A. It has.

Q. And what proportion of those individuals are residents of the state of Minnesota?

A. More than 90 per cent.

Q. Now, as a practical matter, do you annually make a return as trustee of each of those trusts to the tax authorities?

A. We do.

Q. And each class of property is taxed by the taxing authorities, according to the statutes of the state?

A. Yes, sir.

Q. And where you are acting as agent, that is the same thing? Do you make a return, or does the individual make return in that case?

A. The individual makes the return where we act as agent.

CROSS-EXAMINATION

By Mr. Ryan:

Q. Did the Northwestern Trust Company own any real estate on May 1, 1921?

A. Yes, sir.

Q. Approximately what was the value of the company's real estate?

A. We owned a parcel of real estate at 313 Nicollet avenue. That is carried on our books at $150,000.

Q. Anything else?

A. We foreclosed mortgages on about fifty farms.

Q. I am speaking now of the property of the Trust Company, not of its trust fund.

A. I am also speaking of that. As a Trust Company we foreclosed mortgages belonging to the company, as I

understand it, on about fifty parcels of farm lands on which the mortgages aggregated about $100,000 and which we are not carrying on our books as an asset at all. Those farm lands we are not carrying on our statement as an asset at all at this time.

Q. Is there any other real estate owned by the Trust Company?

A. Not that I know of.

Q. You don't own the quarters which you occupy?

A. No, we rent.

Q. Is that statement of real estate true as of May 1, 1922, as well as 1921?

A. Mr. Mulcahy, who will come on the stand a little later, could answer that question a little better. I imagine we have added to some of our real estate holdings in the last year.

Q. You say that each of the directors of the company own ten shares of the corporate stock?

A. Yes. The law requires that each director shall own ten shares to qualify.

Q. How many directors are there there?

A. We have now twenty-seven directors.

Q. I am speaking of May 1, 1921?

A. Yes, twenty-seven I think.

Q. Is there any understanding as to the transfer of those shares if the directors should resign?

A. Yes. Those shares are all held in such manner that if a director ceases to be a director, he takes in the place of his ten shares of stock, eight shares of the Northwestern National Bank stock.

Q. In effect, then, the shareholders of the Northwestern National Bank and the shareholders of the Minnesota Loan and Trust Company are identical?

A. That is true.

Q. They were so as of both dates. There is naturally

no rivalry, then, between the Northwestern National Bank and the Minnesota Loan & Trust Company?

A. Well, in general, the lines of business of a Trust Company and a bank are separate lines; one rather supplements the other, so that there is no occasion for rivalry between the two institutions.

Q. You do not believe that the Trust Company, then, comes into competition with the Northwestern National Bank?

A. Not to any great extent. It does on its deposit side somewhat.

Q. It does what?

A. It does in the matter of receiving deposits, it competes somewhat with the bank.

Q. Insofar as it receives deposits, it competes with the bank?

A. Yes; it pays interest on checking accounts, and the bank does not.

Q. In your judgment does it compete with the Northwestern National Bank or with any other National Bank in Minneapolis in any other respect?

A. Well, it receives savings accounts. It pays half a per cent more, I think, than the bank does. In that way it competes.

Q. Can you think of any other way in which it competes with the Northwestern National Bank or with any other National Bank?

A. Its trust department, of course, competes with the trust department of any National Bank that has a trust department.

Q. Can you think of any other way in which it competes?

A. That is so with any National Bank that might have safety deposit boxes, we would compete with them.

Q. Do you think of any other way in which your company competes with either the Northwestern National Bank

or any other National Bank of Minneapolis?

A. No.

Q. And of course if it doesn't compete with the National Banks of Minneapolis it would not compete with any other National Bank in the state?

A. No.

Q. You don't believe, do you, that in handling the investments or any trust funds, say, in buying bonds and securities with those funds that you come in competition with the Northwestern National Bank or any other National Bank of the State?

A. I wouldn't think so to any extent.

Q. Do you think that insofar as your company buys or deals in mortgages, in looking after its trust funds and keeping them invested, it comes in competition with the Northwestern National or any other National Bank of the state?

A. It might. On the purchase of mortgages we would compete with banks, either directly or indirectly that bought and sold mortgages, but otherwise I should think not, and the same way with bonds, if they were in the habit of buying and selling securities we might have competition with banks in that way.

Q. Would it be any appreciable, material competition?

A. I would not think so.

RE-DIRECT EXAMINATION

By Mr. O'Brien:

Q. You are in the market for bonds and mortgages and properly secured loans, are you not?

A. Yes, our company is all the time.

Q. Every bank in the state is in the market for securities of that sort, is it not?

A. Well, every bank buys some classes of securities, you might say, all the time.

Q. Now, is it not true that wherever there is a group of buyers, in the absence of some peculiar circumstances, buyers who want to deal in the same property, that they are all competitors.

A. Well, that is so of investment houses, yes.

Q. Isn't that a fact?

A. Yes.

Q. And in the same way, a group of sellers are selling competitors, are they not?

A. Yes.

Q. Now, does your company occasionally make a bid for some particular issue of bonds issued by municipalities in a county or a city, or some corporation?

A. Yes, sir.

Q. And when you make those bids, do you find other companies bidding?

A. Yes, sir.

Q. And do you find amongst those companies different banks often bidding?

A. Where banks have clients that desire securities.

Q. Never mind about that. Do you find the banks bidding, National Banks?

A. Yes, sir.

Q. You are competitors, are you not, when you submit those bids?

A. In that way, yes, sir.

Q. Do you know that there is a large amount of money loaned through brokers without security in the state of Minnesota?

A. Yes, sir.

Q. By persons other than bankers?

A. Yes, sir.

Q. Isn't that money competing with the money in the banks or with the money of bankers?

A. It is, yes, sir, to some extent.

Q. When you minimize the competition, you mean that the Minnesota Loan & Trust Company and the Northwestern National Bank act somewhat together?

A. They have identity of stockholders and their lines of business supplement each other.

Q. You don't sustain that relation with all the other National Banks, do you?

A. The relationship, of course, is not as close, is not quite the same between other banks as it is between the—

Q. If you were bidding, or the Northwestern National Bank was bidding for an issue of bonds in the City of Minneapolis or the City of St. Paul, or the City of Crookston or the First National Bank also, you would all be competitors, would you not?

A. Yes.

Q. And that is constantly going on, is it not?

A. Yes, sir.

Q. There are millions of dollars involved in the amount so bid, are there not?

A. That is true.

Q. And in that sense it is all competitive money, is it not?

A. Yes, sir.

Q. Therefore, when one invests in National Bank shares, he puts his money into that competitive market, does he not?

A. Yes, sir.

Q. You maintain an office in St. Paul, do you not?

A. Yes, sir.

Q. You buy in that market and sell also in that office?

A. I think that market is confined largely to selling rather than buying.

Q. You loan money here, do you not?

A. Yes, sir.

RE-CROSS EXAMINATION

By Mr. Ryan:

Q. When National Banks bid for bonds being offered, as you say they sometimes do, that is a very rare thing, is it not?

A. I wouldn't say it was rare. They are in the market frequently for bonds either for themselves or their clients.

Q. Do you recall any instances in 1921 or 1922 in which a National Bank bid for an issue of bonds?

A. No, I can't give you specific instances of that.

Q. Now, isn't it true that that is one of the reasons why the National Banks have affiliated Trust Companies to do that for them?

A. Where they have the affiliated Trust Companies, the Trust Companies ordinarily conduct the investment side of the business. I believe that is true.

Q. And it is true, isn't it, that all of the larger National Banks of the state have affiliated Trust Companies?

A. Many of them do.

Q. Wouldn't you say nearly all of them?

A. Well, in Minneapolis, for instance, we have only three banks that have affiliated trust companies. Two of them are the largest banks there. The third largest bank, however, has no Trust Company.

Q. Those other National Banks, then, when they have to bid for issues of bonds are in reality not competing against anybody else or National Banks, are they?

A. Well, all that are in the market, of course, are bidding.

Q. Yes, but when National Banks come into the market bidding for those issues, they are usually met by competitive bids, bids of Trust Companies affiliated with National Banks, aren't they?

A. Where they have such affiliations, yes, sir.

Q. And isn't it true, usually, that when National Banks go into a bid, make offers to municipalities and to industrial corporations or public utility corporations that take over and issue their bonds, that they do it because they have some individual client who desires them to do it, and they do it in his interest?

Objected to as incompetent and immaterial.

Received subject to objection.

A. Well, I think for that reason, and for the further reason that they often make money by buying and selling securities.

Q. Well, taking up the latter part of that answer, that the National Banks often make offers to buy whole issues of bonds by municipalities or by public service corporations, or by railroads, to what extent is that true? Is it done in any appreciable degree or amount?

A. Well, I think to a very large extent in some localities.

Q. Well, for instance, the St. Paul and Minneapolis National Banks, do they very often do that?

A. I can't speak so much for St. Paul. I don't believe the Minneapolis banks do it to a very large extent.

Q. Do you think it is done to any appreciable degree in Minnesota?

A. I couldn't answer your question.

By Mr. O'Brien:

Q. Is it not true that many of the National Banks of Minnesota have bond departments in their bank?

A. I believe some of the Duluth banks have.

Q. The Metropolitan Bank of Minneapolis?

A. The Metropolitan Bank of Minneapolis.

Q. And is it not also true of the Midland National Bank of Minneapolis?

A. Yes, sir.

Q. And of a great many banks in Duluth?

A. The Duluth banks, I believe, have followed that custom.

Q. And in Winona?

A. I don't know about Winona.

Q. So that the dealings in bonds—at least the Metropolitan and the Midland of Minneapolis are sufficiently large that they have a special department for that purpose?

A. I recall now that that is true.

Q. Do you know how many National Banks there are in Minneapolis?

A. I believe now we have just four.

By Mr. Ryan:

Q. Isn't there a difference between the kind of securities that a bank will invest in for itself and the kind that it will buy for clients?

A. Yes, I should say so. The bank ordinarily for itself would buy short-time securities and for its clients longer time.

Q. And it is also true, isn't it, that the ordinary individual investor is not buying short-time securities?

A. Yes, sir, that is true.

Q. That the bank is usually looking for one kind of security and the individual investor for a totally different kind of security?

A. Yes, sir.

By Mr. O'Brien:

Q. Would it surprise you to know that the aggregate capital stock of the National Banks of the state of Minnesota amounts to thirty-seven million dollars, in round numbers, and that the aggregate holding of those banks in Minnesota, in Government bonds, United States securities, is forty-one million, National Banks in the state?

A. I didn't have that figure in mind. I don't claim to be a banker.

DAVID R. WEST,

sworn on behalf of defendant, testified:

By Mr. O'Brien:

Q. Your name is David R. West?

A. Yes.

Q. And what is your occupation, Mr. West?

A. I am assistant secretary of the Minnesota Loan & Trust Company in the bond department.

Q. You reside in Minneapolis?

A. Yes, sir.

Q. Will you please give us approximately the number of sales of bonds made by the Minnesota Loan & Trust Company to individuals in Minnesota during the year 1921 and the year 1922?

A. In 1921, over seven million, and in 1922 over ten million. I should say this, I have here only the total sales to individuals everywhere, but over 90 per cent of our sales to individuals are in Minnesota.

Q. Now, how long has the company been engaged in that business?

A. For forty years.

Q. What do you say as to the average maturity of those securities?

A. I would say in the neighborhood of eight years.

Q. And taking that, what would you say was the aggregate amount of outstanding bonds which your company had sold to residents of Minnesota on the 1st of May, 1921?

A. Well, to be safe, I would say over twenty-five million.

Q. And how about the first of May, 1922?

A. Increasing every year.

Q. Now, such of those bonds as were issued by municipalities outside of Minnesota, under the Money and Credits Act should be returned for taxation, should they not?

A. Yes.

Q. And that is true also of corporation bonds when the mortgage is not recorded in Minnesota?

A. Yes.

Q. All of those corporation bonds, where the mortgage is recorded in Minnesota, were not required to be returned, under the Money and Credits Acts?

A. No, sir.

Q. And of course none of the municipals in Minnesota?

A. No.

CROSS-EXAMINATION

By Mr. Ryan:

Q. Of the bonds sold in 1921—an estimate of seven million dollars—can you tell us what part of those bonds were issued by Minnesota corporations?

A. I would say approximately a million five hundred thousand dollars.

Q. Did that include Minnesota state and municipal bonds?

A. That million and a half did not; just Minnesota corporations that was; that was private corporations. The Minnesota municipals was three million in that year; Minnesota private corporations were $1,500,000, outstanding on May 1, 1921.

Q. Those corporation bonds that you speak of are railroad bonds, public utilities—

A. Public utility and industrial; mostly public utility and industrial.

Q. And mostly bonds issued by corporations?

A. Yes.

Q. Was there any appreciable part of those bonds issued by individuals?

A. I don't recall any during those years issued by individuals.

Q. You say that there were seven million dollars of bonds sold by you to individuals in Minnesota. Do you mean to exclude sales to corporations in Minnesota?

A. Excluding banks and insurance agencies, and I don't know of any other corporations we sell to. There may have been one or two corporation sales in there.

Q. During that year you did sell bonds to banks?

A. Yes, but that isn't included in that total.

Q. And did you sell bonds to National Banks in Minnesota or other state banks?

A. Very seldom. Occasionally we sell bonds to National Banks. There are not as many National Banks as there are State. We sell some to National Banks, yes.

Q. They are in the market to buy and they buy from you as well as from anybody else?

A. The smaller ones do, yes; the larger ones do not.

Q. Did you, in 1921, buy bonds from banks? Speaking now of buying them from banks rather than selling them to banks?

A. Well, I presume we bought them from banks as well as other dealers. We always do buy from dealers and from other banks.

Q. You deal with the banks both ways, buying and selling?

A. Yes.

Q. And you deal with the National Banks both ways, buying and selling?

A. Yes.

Q. But in a lesser degree you think than the other banks. Why is that—because the National Banks are usually larger and are better able to buy and sell bonds than the smaller banks?

A. Well, when I first answered that question that we did less business with them I meant less retail business. We do a bigger wholesale business with National Banks than with

State Banks, because I know of no State Banks who really are operating a bond business, whereas there are some National Banks who are operating a bond business.

Q. And in respect to those National Banks who are operating a bond business, you buy from them and sell to them?

A. Yes.

Q. And do that on a large scale?

A. Yes, sir, fairly large scale. I couldn't give you the figures on it at all.

Q. Could you roughly say about how much bonds you bought from National Banks in 1921, and how much bonds you sold to National Banks in 1921?

A. I wouldn't have any idea whatsoever. I couldn't give you any answer on that at all. We do not classify them. They really would be classified among our dealers as dealers rather than as banks.

Q. You have your list, and as the individual comes, you may want to sell them some more bonds some day?

A. Yes, sir. We have a list of banks that we do business with, too, but we don't classify the National Banks that are dealers as banks, we classify them as dealers.

Q. I suppose you can't give us anything as to the year 1922, different than 1921?

A. No, different, I can't give you any different classification?

Q. You have the figure here of seven million sold to individuals, and ten million in 1922. Can you say that it was either as much—that you bought from National Banks as much as that or that you sold to National Banks as much as that?

A. Oh, no, it wouldn't be as much as that.

CHARLES V. SMITH,

recalled on behalf of defendant, testified:

By Mr. O'Brien:

Q. Mr. Smith, when you were giving the amount of your trust assets, did you include in that agency assets?

A. I did not.

Q. How much did they amount to?

A. A little over nine million dollars at this time.

Q. How much did they amount to on the 1st day of May, 1921?

A. I haven't that figure. At the end of last year they amounted to slightly in excess of seven million dollars.

Q. About how much did they amount to May 1, 1921?

A. I haven't the figures for May 1, 1921?

Q. Can you give us your best judgment?

A. I should say approximately six million dollars.

Q. And the funds in this account were invested in what class of security?

A. In bonds and mortgages, stocks.

Q. Did you ever make an investigation for the purpose of determining the number of bonds taxable in Minneapolis, that is, bonds of other states?

A. No, sir.

Q. That were held by individual citizens of Minnesota?

A. No, I have not.

WILLIAM J. STEVENSON

recalled on behalf of defendant, testified:

By Mr. O'Brien:

Q. You were speaking a while ago of corporate bonds, bonds issued by Minnesota corporations secured by real estate, they come under the head of mortgages, do they not?

A. No, We wouldn't put them under the head of mortgages.

Q. Are there any other corporate bonds in Minnesota that you know of than those secured by real estate?

A. Yes, sir. The Tri-State Telephone Company issued a million and a quarter, I think, of three-year notes that were secured by a trust indenture running to us, but there was no real estate security.

Q. Were those handled through your company?

A. Yes.

Q. And to whom were they sold?

A. Well, we were in a syndicate with the National City Company of New York. They handled about half of them, and the other half were sold through our territory.

Q. To whom?

A. All classes of buyers; some dealers.

Q. And sold any to citizens of Minnesota?

A. Oh, yes, a great many of them sold.

Q. When was that issue made?

A. It was a three-year issue and I think it matured in 1922. It would be April or May, 1919, I think, when they were being sold during the succeeding year, but they were not due until April, 1922, I think.

Q. Have you had an opportunity of forming an estimate of the amount of money invested by individual citizens of the State of Minnesota in mortgages outside of the state of Minnesota?

A. Not in mortgages alone, no, sir, but in mortgages and taxable bonds I have.

Q. That is, you considered the bonds of other states of corporations outside of Minnesota or mortgages outside of Minnesota?

A. Corporation bonds secured by other than Minnesota real estate, municipal and foreign government bonds outside of Minnesota but sold to Minnesota residents.

Q. Have you had an opportunity of seeing how much of that class of security is sold here?

A. Yes, sir.

Q. You have observed the general course of investments?

A. Yes, sir.

Q. And you think that you have a judgment upon that question that is approximately correct?

A. Well, I wouldn't say it was approximately correct; I think I have a pretty fair estimate.

Q. What is your best judgment as to the amount of money so invested by individual citizens in the state of Minnesota?

A. In excess of one hundred million dollars.

CROSS EXAMINATION

By Mr. Ryan:

Q. You say that these taxable bonds in Minnesota outstanding at the present time, in your judgment is about one hundred million dollars?

A. The taxable ones.

Q. Could you give or form an estimate as to the amount of such bond issue on May 1, 1918?

A. No. It would be considerably less.

Q. I only asked you that because I have the former tax commission report which indicates the total of such bonds reported for taxation within the state, and the total was $14,708,895. That being so, your judgment would not be modified in that respect, would it?

A. Somebody must have forgotten to report, but I wouldn't say that it was anywheres near as much in 1914 as—

Q. This was 1918.

A. 1918,—as it is today. In 1918 there was lots of money going into United States liberty bonds.

Q. Well, you haven't anything tangible or definite upon which to base those figures?

A. Yes. The confidential reports that we get from other dealers, and from the Federal Reserve Bank, gives a pretty fair basis upon which to make our estimate.

Q. Now, you spoke of these telephone companies' three-year notes. What was the security behind those notes?

A. There was no security. There was an indenture note. They agreed that they would not mortgage their property until the notes were paid off, and that they would keep their assets up to a certain figure—their quick assets.

Q. In a great measure that put all their assets, particularly their real assets, behind the notes, didn't it?

A. Yes, it did, in a sentimental way, but it didn't in a legal way, so that they didn't become tax exempt in Minnesota, because no mortgage registry tax was paid because of that indebtedness.

Q. But because they couldn't mortgage their real estate or do anything with their assets, it left that real estate, even from a legal standpoint, standing squarely behind those notes?

A. Yes, but there was no lien.

Q. And when you sold those bonds, the purchaser asked your salesmen what there was behind those bonds, what security, and he said because of the condition under which they are issued, behind them is all the real estate belonging to that company?

A. No, the real estate was mortgaged anyway. The real estate was already mortgaged.

Q. Was it mortgaged to any appreciable extent?

A. Yes, it was; it was at the time that they took over the Northwestern Telephone Company here.

Q. What were their assets that made the notes good?

A. Their franchise and their earning capacity.

Q. Their poles and wires?

A. Their equipment.

Court here adjourned until Tuesday morning, October 23rd.

FRANK J. MULCAHY,

sworn on behalf of defendant, testified:

By Mr. O'Brien:

Q. Mr. Mulcahy, where do you reside?

A. Minneapolis.

Q. And what is your occupation?

A. I am assistant secretary and assistant treasurer of the Minnesota Loan & Trust Company.

Q. What department of the company have you charge of?

A. Mortgage-loan.

Q. Please give us the amount of mortgages upon real estate purchased by the Minnesota Loan & Trust Company, sold by that company to individual citizens in the State of Minnesota and outstanding and unpaid on the 1st of May, 1921?

A. That would be just approximate; we don't have any records of that kind, but my guess would be about five to seven million.

Q. Now, those were mortgages negotiated during similar previous years?

A. Yes.

Q. Including mortgages negotiated during previous years?

A. Yes.

Q. And what about May 1, 1922, what would be the amount?

A. Well, I think the mortgages outstanding would be approximately the same.

Q. Can you give us the amount of mortgages on real es-

tate still owned by the company on each of those dates?

A. I could only approximate that. While our bills receivable on May 1, 1921, was $1,461,684. that included city loans, Minnesota Farm loans, North Dakota, South Dakota and Montana. Now, I have not an analysis of the different divisions as of that date, but I have an analysis as of August 1922, which shows the number of Minnesota mortgages and the number of Minneapolis and St. Paul mortgages, and I think that would be fairly close as respect to dates.

Q. If you will give us the amount on those dates and then tell us how that amount compares with the 1st of May, 1922, and the 1st of May, 1921.

A. On August 11, 1922, our bills receivable was $1,681,-805.24 as against $1,461,000 in May, 1921, and $1,419,000 in May, 1922. I think the increase of approximately $200,000 is in—we are holding a little more city mortgages at this time than we are farm, because our farm mortgage business has kind of quieted down.

Q. You are speaking now of the mortgages that are in the hands of the public but owned by the company?

A. These are all mortgages.

Q. And all Minnesota real estate mortgages?

A. Now, these are mortgages owned by the company in those respective divisions that I have just named to you, city, Minnesota, North Dakota, South Dakota and Montana.

Q. Can you give us the amount of those mortgages owned by the company on Minnesota real estate, Minnesota mortgages?

A. I can give you the exact as of August 11, 1922.

Q. What was it?

A. Minnesota farm mortgages were $317,514.40.

Q. In your judgment, how does that amount compare with the holdings on the 1st of May, 1922, and the 1st of May, 1921?

A. Well, it is approximately the same, because the

amount of farm mortgage business has been just about—we haven't increased it in that period.

Q. How long have you been connected with the Minnesota Loan & Trust Company?

A. Since June, 1902.

Q. And all that time have you been in the mortgage department?

A. I started in as office boy and have been largely in the mortgage department.

Q. So you have a great familiarity with those matters?

A. Well, I know considerable about them.

Q. Are you familiar with the other securities held by the company?

A. You mean as to bonds and mortgages?

Q. Yes, bonds and trust estates.

A. No, I have no knowledge of those.

Q. Estates of deceased persons or those under guardianship?

A. No, sir.

Q. Now, to get an idea of how these mortgages are handled, mortgages that you have testified that were in the hands of the public, take the case of city real estate, a loan is made by the company, is it?

A. Our city mortgages are made almost exclusively direct to the company.

Q. By the company?

A. By the company, except as to St. Paul and Duluth direct without—through a broker.

Q. And those mortgages are held by the company for sale?

A. They are made and completed with their own funds and then sold to individuals, institutions, etc.

Q. These mortgages are recorded mortgages that you have spoken of?

A. Yes, sir.

Q. Upon which registry tax was paid?

A. Yes, sir.

Q. Could you distinguish in the testimony you have given between city mortgages and farm mortgages?

A. Well, the figures that I gave as to mortgages, $317,-000, that had reference to Minnesota farm mortgages. Now, at the same period, on August 11, 1922, we had city mortgages amounting to $930,240. They were all in Minnesota; some were in St. Paul, some were in Minneapolis, and I think some in Duluth.

Q. How did that amount compare with the amount held on the first of May, 1922, and the 1st of May, 1921?

A. I think that they were about two hundred to two hundred fifty thousand more than in 1921, because our bills receivable in 1921, was $1,461,000, whereas, as of this date, it is $1,607,000. There is about $200,000 difference there, and I think an analysis would show that it was almost—

Q. When you spoke about the amount of mortgages outstanding on May 1, 1921, and May 1, 1922, I think you gave that in the neighborhood of five million?

A. Yes.

Q. Are you now referring to Minnesota mortgages?

A. I was referring to Minnesota farm mortgages at that time.

Q. Well, at those dates were there any outstanding city mortgages in the hands of the public?

A. Yes.

Q. Which had been sold by you?

A. Yes.

Q. Minnesota mortgages?

A. City mortgages on properties in Minnesota cities, yes.

Q. Could you give us an estimate of the amount of that class?

A. I think about twelve to fourteen million.

Q. That were outstanding, mortgages upon real estate

property sold by you to the public.

The Court: That was on the 1st of May, 1921?

Witness: Yes.

Q. And what proportion of those mortgages was held by citizens of Minnesota?

A. I don't believe I can answer that question because I haven't any analysis of it. I have attempted to make an analysis of the sales of 1921. In 1921 we sold a million and a half of city mortgages, of which seven hundred fifty thousand went to institutions in the east, outside of Minneapapolis.

Q. Approximately 50 per cent were sold to outside institutions?

A. Yes.

Q. And the other 50 per cent sold where?

A. I think right over the counter to local people?

Q. To individual citizens?

A. To individuals.

Q. Do you think that fairly represents the course of business in mortgages?

A. I think it does.

Q. Was there anything unusual that year in the number of local people that were purchasing as compared with the outsiders?

A. No, I don't think at that time there was.

CROSS EXAMINATION

By Mr. Ryan:

Q. When you speak of these sales having been made over the counter, do you mean at your Minneapolis local office or do you mean at all your offices located as they were described yesterday throughout the Northwest?

A. Well, the amount of mortgages that are sold are negligible outside of our Minneapolis office.

Q. Then you would say that mainly they were sold at your Minneapolis office?

A. Yes.

Q. And to individuals rather than to corporations?

A. Yes. That is about $750,000 in 1921, and the other $750,000 went to institutions in the East, Insurance Companies.

Q. Now, take these city mortgages you speak of, for instance; how does your company actually get those mortgages? How does it make the loans?

A. Well, we advertise for them through the newspapers. We have two men out soliciting the loans, looking up the permits. Those are the two principle ways, and through the fact that over a series of years it is known that the Trust Company has financed a number of these city properties.

Q. National Banks do not, as a rule, advertise money to loan on mortgages, do they?

A. Well, I think not. I don't know of any.

Q. So far as you know, National Banks do not employ solicitors to procure persons who desire to borrow money?

A. Well, I know of one National Bank that was pretty active in Minneapolis making city loans. That was the Minneapolis National out on Lake and Nicollet. They do quite a city business.

Q. That was during what years?

A. I think for several years past—1921 and 1922.

Q. Did they make those loans through the bank?

A. Well, I don't know how they made them, whether they made them through the bank. All I know is that the Minneapolis National would make the loans. I don't know whether they had a subsidiary company or not, as to that.

Q. What would you say as to the maturity of the mortgages which you made upon city property?

A. Well, the small residence loan, that is the loan that is ordinarily sold over the counter, it is usually made for

three years, while the larger loan, the loan that is on business property and goes East, that is made for generally five years, and sometimes ten.

Q. Did you make any loans for as short a period as a year?

A. I don't recall any at the moment, sir.

Q. Your company wouldn't want that, would it?

A. We might do it.

Q. On real estate particularly for as short a period as a year?

A. Well, our mortgage department wouldn't because it wouldn't be a salable loan for our department. If we got it it would be as an accommodation to some client. What we usually do in a case like that, if a man wants a year loan, why the commission on a year loan would be the same as on three years, and give him the privilege of paying in a year.

Q. Application for loans for a year are inconsiderable, if any, are they not, with your company?

A. They are with us, yes.

Q. Don't you believe it would be true, as a general proposition, that there are no companies like yours which virtually deal in mortgages on city property in a shorter period than one year?

A. Speaking from a standpoint of sale of loan, that would be true. A loan due in a year would be a difficult loan to sell. The shortness of time would make it objectionable to the purchaser.

By Mr. O'Brien:

Q. There is one question I would like to ask you. The privilege of paying off loans on any interest days is a very common provision in mortgages, is it not?

A. It is a custom that we have rather encouraged in the small residence loan, because we believe it is a desirable thing to let the home owner acquire a larger equity and get

his home clear. In the larger loans, the business property loan, the prepayment privilege makes it, of course, unsalable.

E. P. DAVIS

sworn on behalf of defendant, testified:

By Mr. O'Brien:

Q. You are the president of the Northwestern Trust Company in this city?

A. Yes, sir.

Q. And have occupied that position how long?

A. Since the first of January.

Q. Prior to that time how long had you been connected with the company?

A. Seven years.

Q. What has been your business in St. Paul for some time past?

A. Handling real estate, investments, mortgages.

Q. Mortgage loans?

A. Yes, sir.

Q. You reside in this city?

A. Yes, sir.

Q. What is the capital of the Northwestern Trust Company?

A. A million dollars.

Q. Has it any surplus?

A. Yes, sir.

Q. What is its surplus?

A. Approximately $500,000,—$480,000 I think it is.

Q. And any undivided profits?

A. No; a small amount, I think fifteen thousand.

Q. Was that approximately its condition on May 1, 1921; and May 1, 1922?

A. The surplus and undivided profits I think were $380,000.

Q. May 1, 1921?

A. Yes, sir.

Q. And they greatly increased up to the amount you now state?

A. Yes, sir.

Q. Does the Northwestern Trust Company receive deposits?

A. No, sir.

Q. It doesn't do a banking business in that sense?

A. No, sir.

Q. What were the gross earnings of the Northwestern Trust Company for the year 1921 outside of interest received on government securities and—

A. I can't give you the figure exactly.

The Court: Had you completed your question?

Mr. O'Brien: Well, I hadn't completed it altogether, no.

A. The gross earnings tax was in the neighborhood of $15,180.

Q. I wanted to get the amount of gross earnings outside of the tax exempt, securities, the gross earnings less the interest on United States municipal bonds and the interest paid on borrowed money. Have you got those figures in mind?

A. About $326,000, as I recall it. I haven't the figures. I think our tax amounted to $15,100 and some odd.

Q. Is the Northwestern Trust Company engaged in the business of buying and selling mortgages upon real estate?

A. Yes, sir.

Q. On its own account?

A. Yes, sir.

Q. Does it also handle trust estates?

A. Yes, sir.

Q. And estates of deceased persons?

A. Yes, sir.

Q. And estates of persons under guardianship?

A. Yes, sir.

Q. Does it also act as agent for investors and take care of the securities of the investors?

A. Yes, sir.

Q. Now, in the matter of taxation, the Northwestern Trust Company pays a gross earnings tax upon its own earnings?

A. Yes, sir.

Q. The trust estates are accounted for as separate items, are they not, to the taxing authorities?

A. Yes, sir.

Q. And the same is true of the estates of deceased persons and persons under guardianship?

A. Yes, sir.

Q. Can you tell us whether or not the Northwestern Trust Company deals in loans upon collateral?

A. No, sir.

Q. It does not?

A. No, sir.

Q. What were the total holdings of the Northwestern Trust Company in mortgages secured upon real estate in Minnesota on the 1st of May, 1921?

A. You mean the Northwestern Trust Company itself or the agent?

Q. The Northwestern Trust Company itself.

A. I couldn't answer that because I don't know the figures. I haven't the figures at hand.

Q. Do you know what the total amount of the trust estates—

A. That would be a big job to figure up. It would go into millions.

Q. Do you know what the total of trust estates were in the hands of the Trust Company of that date?

A. They are in excess of, I should say, twenty-five million dollars.

The Court: May 1, 1921?

Witness: Yes.

Q. Do you include in that the estates of deceased persons and persons under guardianship?

A. Yes.

Q. And agency accounts?

A. Yes.

Q. So that the entire amount held by the Northwestern Trust Company, in its capacity as trustee, executor, administrator, guardian and agent exceeded twenty-five million?

A. Yes, sir.

Q. Now, will you tell us what those estates consist of mainly?

A. Real estate, real estate mortgages, some stocks, bonds, some real estate contracts.

Q. Can you give us an approximation of each amount?

A. No, I couldn't, not without a good deal of figuring.

Q. Could you give us an approximation of the amount of real estate held upon those trusts?

A. I should say it was in the neighborhood of three and a half million.

Q. And the amount of real estate contracts?

A. I should say approximately two hundred thousand. That varies a good deal.

Q. The amount of stocks?

A. I couldn't give you that.

Q. Will you give your best judgment as to the lowest minimum amount of mortgages and bonds held in those accounts?

A. I should judge it was very close to twenty-two million dollars.

Q. Now, of those real estate mortgages, what proportion was upon Minnesota real estate?

A. Well, 80 per cent, I presume, of all the mortgages we make, and held in trust funds, are Minnesota mortgages. Our practice has always been to invest in Minnesota mortgages because they are tax exempt.

Q. 80 per cent?

A. Yes, sir. It may run over that.

Q. You mean after the registration tax has been paid?

A. Yes.

Q. And how are the bonds divided? What is the character of the bonds?

A. On the trust estates they are all first mortgage bonds, a good many municipals.

Q. By first, you mean mortgage bonds secured by real estate?

A. Yes, sir.

Q. Corporation bonds?

A. Yes, corporation bonds.

Q. Individual Bonds?

A. Yes.

Q. And what proportion of those are on Minnesota property?

A. That I couldn't say. I never figured it out.

Q. Can you give us an approximation of the minimum amount there also?

A. I couldn't, because we own so many government notes, treasury notes and government bonds.

Q. I am talking of corporation bonds?

A. Yes.

Q. What proportion of those bonds are secured by Minnesota real estate?

A. I couldn't give it. It would be a big job to figure it out because we don't keep it on our books in accordance with Minnesota. We would have to pick out every bond in every trust fund.

Q. And then a large number of municipals, you say?

A. Yes.

Q. And United States government bonds?

A. Yes, sir.

Q. United States certificates of indebtedness?

A. Yes, sir.

Q. Did I ask you to give us an approximation dividing the mortgages from the bonds?

A. I don't remember that you did. I couldn't say offhand because we don't keep our books so that we divide the bonds and mortgages. We keep our books so that each trust estate is lumped.

Q. Can you give an approximation of how the bonds were divided between corporation bonds and municipals, or United States bonds?

A. Well, in 1921 there were more United States bonds than there are at the present time. I should say that we have approximately three million dollars of United States government bonds at the present time and treasury notes, but between the corporation and municipal, I couldn't.

CROSS-EXAMINATION.

By Mr. Ryan:

Q. The Northwestern Trust Company is affiliated with the First National Bank of this city, is it not?

A. I presume it is, yes, the same ownership practically.

Q. The stockholders of the First National Bank are stockholders of the Northwestern Trust Company, are they not?

A. I couldn't say exactly. There are some, I presume, stockholders of the First National Bank that do not own stock in the Northwestern Trust Company.

Q. Are there any stockholders of the Northwestern Trust Company who are not holders of stock of the First National Bank?

A. Yes, sir.

Q. Can you state in percentages the holdings of stockholders of the First National Bank in the Northwestern Trust Company?

A. I didn't quite get that.

Q. What percentage of stock of the Northwestern Trust Company is held by stockholders of the First National Bank?

A. 87 per cent, I should say of the stockholders of the Northwestern Trust Company were stockholders of the First National Bank,—if that answers your question.

Q. That covers it, yes. Is there any identity of officers of the two corporations?

A. Well, two directors of the First National Bank are directors of the Northwestern Trust Company, two out of nine.

Q. Is there any identity of other officers?

A. You mean of presidents?

Q. The executive officers?

A. No, sir.

Q. Do you know whether or not the stock of the Northwestern Trust Company held by stockholders of the First National Bank is held in any trust agreement or voting arrangement or anything of that kind?

A. Not that I know of.

Q. You don't know that that is not so?

A. No, I don't.

Q. The Northwestern Trust Company occupies the same building as the First National Bank, does it not?

A. Part of the same building.

Q. And isn't it true, as a general proposition, that the Northwestern Trust Company is an adjunct of the First National Bank?

A. I wouldn't say that, No.

Q. How would you describe the relationship between them?

A. Well, absolutely independent, my understanding of it.

Q. You mean they are separate corporations?

A. Separate corporations and separate offices, and the First National Bank has nothing to do with the management of the Northwestern Trust Company, or the Northwestern Trust Company with the management of the First National Bank.

Q. In their business relations do they deal with each other, for instance, as if the First National Bank would deal with the Merchants Trust & Savings Bank?

A. I should say so.

Q. And you do business with the other National Banks in the city the same as you do business with the First National Bank?

A. Yes, sir.

Q. You don't throw business to the First National, and the First National doesn't assist you in getting business?

A. Well, I suppose that some of our business may come from the First National Bank.

Q. Does your Trust business go to the First National?

A. No, sir, except we keep our accounts in the First National Bank, and we keep our accounts in the American National and also the National Exchange. We keep our accounts in various banks throughout the city.

Q. You don't keep them only in the First National Bank?

A. We keep more in the First National Bank, yes, sir.

Q. What is the purpose of those other accounts in the other banks?

A. Well, I don't know what the purpose is except that they don't want to keep them all in one bank.

Q. That wouldn't be the purpose. There is a profit in those deposits, isn't there?

A. I suppose there is.

Q. And the people who are interested in your bank would be giving that profit to some other rival bank when they could perfectly well have it in the bank on which they would—

A. But they don't dictate where we keep our deposits.

Q. Your stockholders do not dictate where you keep your deposits?

A. No, sir.

Q. Well, that is a curious corporation. Your stockholders elect their directors, do they not, as any other corporations?

A. Yes, sir.

Q. Well, your directors determine how they will handle their funds regardless of the interest of the stockholders?

A. They have, yes.

Q. And you consider that to be true, do you?

A. Yes.

Q. Is there any other reason that you know of why the Northwestern Trust Company maintains deposits in National Banks which are rivals to the First National Bank?

A. No other reason than I have given.

Q. Is there any other reason that you know of?

A. No, sir.

Q. Your stockholders are aware of that, are they?

A. Yes, sir.

Q. They are willing to forego—suffer that loss of profit which results therefrom?

A. I presume so.

Q. And without any compensating advantage that you know of?

A. I presume so.

Q. Are you sure that it isn't done because of any arrangement with the other banks with whom you deposit for getting some of their business for your Trust Company?

A. They have trust departments of their own.

Q. Has the American National Bank a trust department?

A. Well, they do a certain amount of trust business.

Q. Have they a trust department?

A. No, they have not a trust department.

Q. Are they authorized to do a trust business?

A. Under the Federal Act they can.

Q. But in order to do that they must have a trust department, must they not?

A. Yes, they must.

Q. Well, under the Federal Act, unless they have a trust department, they cannot legally do any trust business?

A. No, they can't.

Q. You say that they nevertheless do it?

A. Well, when I say they do it, I think the officers of the company act as individual trustees; I don't know, but I know we don't get much business from them.

Q. Is that true of the National Exchange Bank?

A. Yes.

Q. Did you say you had an account at the Merchants National Bank?

A. No.

Q. How about the Capital National Bank?

A. When I say the Merchants, we have one trust that has an account at the Merchants. We have always had it.

Q. That is an exceptional situation?

A. Yes, sir.

Q. The Merchants National Bank is an affiliated Trust Company, is it not?

A. Well, I presume it is affiliated.

Q. You know that the Merchants Trust & Savings Bank is affiliated with the Merchants National Bank, do you not?

A. Well, not actual knowledge. I know that they are the same stockholders.

Q. Well, your testimony is, in stating the facts here, limited, as is your testimony in connection with the Merchants National Bank and the Merchants Trust & Savings Bank?

A. Yes.

Q. You don't know that?

A. I don't know as an absolute fact. I understand that it is merely an understanding that they do.

Q. Do you carry deposits with the Capital National Bank?

A. No, sir.

Q. The Capital National Bank also has an affiliated Trust Company?

A. Yes, sir.

Q. Has it occurred to you, or does it occur to you, that there is a reason why you carry accounts with some National Banks who have not affiliated Trust Companies and do not carry deposits with National Banks which have affiliated Trust Companies?

A. Never thought of it that way.

RE-DIRECT EXAMINATION

By Mr. O'Brien:

Q. I don't know whether you stated the amount of stock of the First National Bank and Northwestern Trust Company that were held by identical persons. I don't mean exactly the same holdings by the same person, but with one or two persons that held certain proportion of the stock?

A. I lumped the whole when I said 87 per cent.

Q. You said 87 per cent of the stock of the Northwestern Trust Company was held by stockholders in the First National Bank?

A. Yes, sir.

Q. On May 1, 1921, where did the holders of a majority of the stock of the Northwestern Trust Company reside?

A. St. Paul.

Q. Is there still a considerable amount of stock of the Northwestern Trust Company held by citizens of St. Paul?

A. Yes, sir.

RE-CROSS EXAMINATION.

By Mr. Ryan:

Q. Does the Trust Company itself, this corporation, own any of the stock of the First National Bank?

A. Not as a corporation, but we do have some of the trust funds.

Q. About how much?

A. I couldn't tell you accurately.

Q. What percentage of the stock, approximately?

A. Oh, it wouldn't be over five or six per cent.

Q. And, of course, the First National Bank does not, as a corporation, own any of the stock of the Trust Company?

A. No, sir.

CHARLES D. LUNDIN,

sworn on behalf of defendant, testified:

By Mr. O'Brien:

Q. Your name is Charles D. Lundin?

A. Yes, sir.

Q. And what is your business?

A. Chief clerk, department of banking.

Q. You are here in response to a subpoena served upon the Bank Examiner in this case?

A. Yes, sir, superintendent of Banks.

Q. Does the department of the state of Minnesota, which might be called the banking department, prepare consolidated statements showing the condition of the banks and trust companies and savings banks organized under the laws of Minnesota?

A. We issue a call four times a year, and we compile a tabulation. An abstract is prepared.

Q. Will you please produce the consolidated statement prepared by the banking department with the date nearest May 1, 1921?

Paper produced and marked Ex. C.

Q. Will you please state what exhibit C is?

A. It is a comparative abstract of the condition of state banks, savings banks, trust companies, and they are consolidated, and compared with previous calls.

Q. State whether or not that statement substantially shows the condition of those banks as of May 1, 1921?

A. Why, there might be some change in the condition in that time.

Q. I said substantially. Take the statement nearest preceding May 1, 1921. Produce that.

Paper produced and marked Ex. D.

Q. Will you please give the date of Ex. D?

A. February 21, 1921.

Q. And the date of Ex. C?

A. June 30, 1921.

Q. Now please examine those statements and state whether the condition of the state banks was substantially the same between those periods.

A. Well, there have been some changes. There have been some increases in some items and decreases in others.

Q. Well, I am asking you substantially. For instance, take Ex. C. I see by Ex. D. that the capital stock of the state banks was $28,334,500; is that the same?

A. Yes.

Q. The surplus shown by Ex. D was $11,707,017.30; is that the same on Ex. C?

A. Well, there is a slight—

Q. Well, give us the amount?

A. $11,668,502.

Q. The undivided profits shown by Ex. D were $2,743,-968.17?

A. $2,400,040.27.

Q. Now, take the resources. On Ex. D I find United States bonds held by those banks, $15,944,746.67.

A. $13,369,840.32.

Q. On Ex. D, other bonds and securities is $15,102,-967.03?

A. $16,060,513.90.

Mr. O'Brien: Counsel for the State says that he will admit these statements substantially show the condition of the—

Mr Ryan: That either of them will.

Mr. O'Brien: Yes.

Mr. Ryan: For the purpose of this case.

Q. Now, will you please produce the two statements nearest to May 1, 1922, prepared by the banking department?

Paper produced and marked Deft's. Ex. E, being No. 158, dated April 7, 1922.

Deft's. Exs. C, D and E offered in evidence.

The Court: I suppose that is the same understanding, substantially the same on May 1, 1922, the same understanding as previous?

Mr. Ryan: Yes, that the exhibit shows substantially the condition as the figures indicate, as of May 1, 1922.

Q. Each of these statements is prepared in the same manner, I believe?

A. Yes, they are.

Q. The first column shows the condition, resources, liabilities of corporations organized under the laws of Minnesota doing an exclusive banking business?

A. Yes, sir.

Q. That is, commercial banking business?

A. Yes.

Q. The second column shows the condition of the savings banks organized under the laws of Minnesota?

A. Yes, sir.

Q. The third column shows the condition of the trust companies organized in the state of Minnesota?

A. Yes, sir.

Q. And the fourth column the consolidation of all of those?

A. Yes, sir.

Q. I want to ask you, whether, in the third column marked "26 Trust Companies" there is included all the trust companies, those that do a banking business and those that do not?

A. All trust Companies.

Q. All of the Trust Companies?

A. Yes.

Q. As a part of the reports here made to your department and part of the records of your department, have you a list of the stockholders of the banks?

A. We have.

Q. Those shown in the first column?

A. Yes, sir.

Q. What proportion of the stock of the banks shown in the first column of Exs. C, D and E is owned by individual citizens in Minnesota?

A. Oh, probably better than 95 per cent of all of them. Probably, figuring on the older ones, about 90 per cent?

Q. The Trust Companies do not report?

A. They do not.

Q. You are unable to give that information with respect to the Trust Companies?

A. No, I can't give that.

Mr. Ryan: I suggested that you prepare a statement similar to these which have been introduced and limited to Ramsey County. Were you able to do that?

Witness: Partly.

Q. Please turn to the exhibit that you have, looking at Exs. C, D and E, among the resources of the banks I find in the first column "U. S. Bonds", a certain amount. Those refer to securities of the United States Government?

A. Yes, sir, liberty bonds.

Q. That is true of each of these columns where we find that item?

A. Yes, sir.

Q. "Other bonds and securities," what is meant by that?

A. Municipal bonds and industrial bonds.

Q. Does it mean industrial bonds?

A. Well, it would include them.

Q. Well, can you say what that item really includes?

A. Why, I couldn't say.

Q. Municipal bonds?

A. Yes.

Q. Certificates of indebtedness?

A. No.

Q. Certificates of indebtedness and municipals?

A. Well, yes.

Q. Warrants issued by municipals?

A. Yes, sir.

Q. What proportion of that item found in Ex. D, which amounted to $15,102,967.03, consisted of municipals of the state of Minnesota, certificates of indebtedness issued by municipals in Minnesota and warrants issued by municipals in the state of Minnesota?

A. I have no idea.

Q. Will you inform yourself on that?

A. We have no way of informing ourselves. The banks do not report those separately to us.

Q. Are banks authorized to purchase industrial bonds except those that are secured by real estate mortgages?

A. I am not quite certain whether they are or not.

Q. Do you know whether or not that item includes a large number of municipal bonds?

A. I do not.

Q. Can you inform yourself of that?

A. No, sir, I couldn't.

Q. In the detailed reports of the companies are not their properties classified?

A. In our examinations the Examiner would classify, possibly.

Q. You examine the banks how often?

A. Twice a year.

Q. So the records of your office do show just how much of that item is included under the heading of municipal securities?

A. Well, they do, yes.

Q. Will you please ascertain that and come here this afternoon and let us know?

A. Why, it would be a pretty big job to have to pull out all the examination files and to tabulate 1100—

Q. I won't ask you to do that, but I would like you to tell us, if you could give it in percentages, whether 50 per cent of that or 75 per cent or 90 per cent. You have given us an estimate of the number of stockholders. If you can,

go back to your department and inform yourself upon that point so that you can give us a fair statement, and I will be entirely satisfied, and I have no doubt counsel will on the other side.

IRA C. OEHLER,

sworn on behalf of defendant, testified:

By Mr. O'Brien:

Q. Mr. Oehler, you reside in St. Paul?

A. Yes, sir.

Q. Are you an officer of the Investment Service Company of this city?

A. Yes, I am vice-president and secretary.

Q. That is a corporation organized under the laws of Minnesota?

A. Yes, sir.

Q. With a capital stock of $100,000?

A. Fifty thousand.

Q. The stock of that company is held by citizens of Minnesota, is it?

A. Yes, sir.

Q. And what is the general business of the company?

A. As the name indicates, it is to assist people in their investments. We make some mortgage loans; we buy bonds for our customers and we advise them generally regarding their business affairs, and that has got to be the principle part of the business.

Q. You deal in mortgages yourself?

A. The company itself deals in mortgages to some extent, yes, sir.

Q. Do you deal in loans on collateral security?

A. Only in rare cases as a broker. We don't buy collateral loans, and sell them ordinarily. We have a customer for them before we make them.

Q. Can you give us a statement which will be approximately correct of the amount of mortgages secured by real estate in the state of Minnesota and owned by individual citizens of Minnesota which were outstanding on the 1st day of May, 1921, and which had been negotiated by your company?

A. Since I was served with subpoena I had a tabulation made of that, and I find we have a little over \$1,100,000 such mortgages outstanding on May 1, 1921.

Q. Prior to the organization of the Investment Service Company, you were secretary, I think, of the Northwestern Trust Company, were you not?

A. Yes, sir.

Q. And had been with that company for a great many years?

A. Yes, sir.

Q. Did the business of that company bring you in more or less contact with financial affairs of the city of St. Paul?

A. To some extent.

Q. And you had a knowledge of banking transactions?

A. Some.

Q. And of the general use of money for investment in this city?

A. Yes, sir.

Q. During that period state whether or not it was the custom of the wholesale and large retail houses to borrow money upon their unsecured promissory notes through brokers?

A. Many of the St. Paul jobbers did that.

Q. That is, they negotiated their notes outside of banks to brokers ?

A. Yes, sir.

Q. Those brokers in turn sold that—

A. Yes, sir.

Q. Do you know whether or not that practice has continued to the present time?

A. I have not kept in touch with it for the last few years?

Q. Were you sufficiently in touch with it during the time you were secretary of the Northwestern Trust Company to be able to form an estimate of the amount or the aggregate amount of such loans?

A. No, sir.

Q. Are you able to state whether dealings of that sort were extensive or only slight?

A. I know they were extensive.

Q. And when you say "extensive," what do you mean?

A. That it ran into millions of dollars. For example, a corporation might owe a million dollars on its unsecured notes and would only borrow one or two hundred thousand dollars from it own bank and borrow the rest of it through brokers.

Q. You had occasion during that time to see the reports of the various wholesalers to the banks, see their statements?

A. No, sir, we had no occasion to do that.

Q. You have no hesitancy in saying that the traffic in those notes in this city amount to millions?

A. I believe it did.

Q. Each year?

A. Each year, yes, sir.

Q. As a part of the business of the Investment Service Company, do you manage estates of deceased persons?

A. The company does not, no, sir. Col. Cole and I do personally. The company has no authority to so act.

Q. There are managed in that office by your organization some very large estates, are there not?

A. Yes, sir.

Q. Would you have any objection to giving us the aggregate investment of those estates, the minimum, in Min-

nesota real estate mortgages and United States and municipal bonds?

A. Roughly, I would say all together, a million and a half of such securities.

Q. And the beneficiaries of those estates are practically individual citizens in Minnesota?

A. Some of them are.

Q. A considerable proportion of them?

A. Possibly half of them or more.

CROSS EXAMINATION

By Mr. Ryan:

Q. These mortgages which you say your company had put out to May 1, 1921, were they mainly city or farm mortgages?

A. Both. Possibly about half of each; possibly more farm mortgages; farm mortgages probably more than half.

Q. When did you sever your connection with the Trust Company?

A. In December, 1914.

Q. Your testimony in reference to the brokering of notes of jobbing houses related to that period?

A. Well, since then we find some investments for country banks, and we still have offerings of commercial paper from time to time, and I have kept in touch with that for a while, but lately—

Q. Are you able to state that in 1921 and in 1922, to your knowledge, there was any of that brokering of jobbing house notes in any appreciable amount?

A. I can't say as to the amount. I know that those things were offered, but I wasn't in touch with the details at that time or the amounts.

Q. You only know, as a matter of general experience, that the business existed?

A. Yes, sir.

Q. Without knowing whether it was large or small?

A. Yes.

Q. In 1921 and 1922?

A. Yes.

Q. In respect to those loans brokered by jobbing companies, as you have testified, wasn't there some reason for that, in that those jobbing companies would exhaust their credit at the bank and they would be compelled to resort to other sources for their borrowing?

A. I wouldn't be able to say that any St. Paul jobbing houses had exhausted credit or reached the limit in all of the St. Paul banks. They might have reached their limit in one bank.

Q. That would be true, that they would readily reach their limit in the bank with which they did business?

A. In a particular bank, but if they were doing business with a number of banks, they might not exhaust it; it might be a matter of economy or some other reason for brokering their paper.

Q. Do you know that that limitation upon the loaning power of those concerns was not a factor in those transactions?

A. I don't know that it wasn't.

G. W. GOLD,

sworn on behalf of defendant, testified:

By Mr. O'Brien:

Q. Mr. Gold, where do you reside?

A. Redwood Falls, Minnesota.

Q. And what is your business?

A. I am vice-president of the Southern Minnesota Joint Stock Land Bank.

Q. Under the laws of what jurisdiction is that bank organized?

A. United States.

Q. How long has that bank been organized?

A. It was organized on the 25th of June, 1919.

Q. How many banks of that character have been organized in the State of Minnesota?

A. There are three which have been organized up to this time in Minnesota. There have been three banks organized outside of Minnesota which are authorized to do business in Minnesota.

Q. What is the capital stock of the Southern Minnesota Joint Stock Land Bank?

A. At the present time it is $1,800,000.

Q. Where is that stock held?

A. It is held by stockholders scattered—I believe our last figures showed—in twenty-one states.

Q. What proportion of the stock is held by individual citizens of Minnesota?

A. About 30 per cent.

Q. What character of business is transacted by this bank?

A. The law provides that we can invest in two things; first mortgages, farm loans, and government securities.

Q. What were the holdings of that company in farm loans upon Minnesota farms May 1, 1921?

A. I might say in that connection, that there was a bank organized in Minneapolis, known as the First Joint Stock Land Bank of Minneapolis, which we consolidated with our bank as of June 1st this year, 1923, and in giving those figures I will give you the figures covering the Minneapolis bank and the Southern Minnesota, is that what you want?

Q. Give them together.

A. I can give that separate to you. The Southern Minnesota had $1,700,000 of farm loans, in round figures, on May

1st, 1921, in Minnesota, on Minnesota land. The First Joint Stock Land Bank of Minneapolis has $1,850,000 of loans, of which about $150,000 were in Iowa, leaving about $1,700,000 in Minnesota lands.

Q. Now, what was the situation in 1922?

A. The Minneapolis bank had approximately two millions of loans in Minnesota, and the Southern Minnesota Bank had about $2,100,000 in Minnesota.

Q. What is the holding of the Southern Minnesota Joint Stock Land Bank now of mortgages in Minnesota?

A. We have twenty-six million of mortgages, of which about eighteen millions are in Minnesota?

The Court: Farm mortgages of all kinds?

Witness: Yes.

Q. Your method of operation is that you issue bonds?

A. Yes, sir.

Q. You do not sell your mortgages?

A. No, these mortgages are hypothecated with the registrar of the farm loan board, who is located in St. Paul, and he issues his bonds par for par.

Q. The bonds being registered there, he issues bonds, and those bonds are sold by him?

A. Yes, sir.

Q. How many of those bonds have you now outstanding?

A. $25,650,000.

Q. Where are they held?

A. It is rather difficult to tell that because the bulk of those bonds are coupon bonds. We have no way of knowing just who holds them, although I would rather judge that the big percentage of those bonds are held in Chicago and east of there, by the way the coupons come in for payment.

Q. Are any of them held by individuals in Minnesota?

A. Yes.

Q. What proportion?

A. As nearly as I can judge from the coupons, the way they come in for payment from various banks, there would be approximately a million and a half.

Q. They are tax exempt bonds and so do not appear upon the tax return?

A. Yes, sir.

Q. State whether or not the taxing authorities of the State of Minnesota treat your bank as a National.

A. They do.

Q. The same tax is imposed upon the shares of stock of your bank that is imposed upon the shares of stock of other National Banks in the state?

A. Yes, sir.

Q. And you have an action pending in Hennepin county at this time with reference to those taxes?

A. Yes, sir.

The Court: Your stock is taxed the same as other stock of National Banks?

Witness: They are attempting to do that.

CROSS-EXAMINATION

By Mr. Ryan:

Q. How do you place your loans, Mr. Gold?

A. These loans are ordinarily made through a local banker. An applicant comes in to his local banker, and the banker makes out the application and submits it to us. We send a federal appraiser out, who is appointed by the Farm Loan Board at Washington, to check this loan up. He comes in and he makes his recommendations as to what the amount of his loan should be, and this is checked over by our loan committee and approved for a definite amount, that is, the size of the loan which we will make if it is acceptable to the borrower.

Q. Is the local banker compensated in any way for the services he performs?

A. Yes, sir, we pay him one-half of one per cent commission.

Q. Is that your only method of procuring applications for loans?

A. Yes, sir. If an applicant comes into our office from away and applies for a loan, we will take the application, but we will give the local banker credit for having it come in to him and having him close up the loan, and pay him the commission.

Q. At what rate of interest do you exact on your Minnesota loans?

A. Six per cent. These loans are made on the amortizing plan. The borrower pays seven, which automatically pay that loan off in thirty-three years.

Q. Is there any other concern offering money to loan on that same basis?

A. Yes, sir; there are several life insurance companies here.

Q. Anybody else?

A. Well, there is the Federal Land Bank at St. Paul, and then there are other joint stock land banks.

Q. The Federal Land Company and some insurance companies?

A. Yes, sir.

Q. That sort of loan is limited to these companies, is it?

A. Yes, sir.

Q. Has your rate of interest changed from the time your bank was organized until the present time?

A. No, sir.

Q. The rate that you exacted. You fix the rate of interest?

A. It is limited by law, at six per cent by the federal law.

Q. And you have kept it as high as six per cent?

A. Yes, because we are allowed a certain spread between our bonds and our mortgages and we have not been able to sell bonds at less than five per cent.

Q. And how are your bonds sold?

A. They are sold through syndicates in the East, Chicago and New York.

Q. You don't attempt to sell them here?

A. No, sir.

Q. What do you mean by selling them through a syndicate?

A. Well, large brokerish houses and banks in Chicago or New York.

Q. I mean in detail, you have a certain amount of bonds to dispose of on the market?

A. Yes, sir.

Q. And you will offer those bonds to a particular syndicate, will you not?

A. Yes, sir.

Q. Do you negotiate over the terms?

A. Usually.

Q. And arrive at the basis at which you will sell them to them, or do they agree to undertake to sell them for you and exact a commission?

A. We sell them to them at a certain price and specify what price they go to the public.

Q. You take those to some eastern syndicate because usually it is necessary to do so, isn't it?

A. The Minnesota Loan & Trust Company was in on two syndicate offerings of our bonds in Minneapolis, but the market for that type of investment is so limited in Minnesota that the distribution is not very large, and we have to go to eastern centers to get the real distribution of those bonds.

Q. When you are speaking of the necessity of going to eastern centers for distribution of a large amount, you

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speak of the sum that that has now reached for these many years, this total of twenty-five million?

A. Yes, sir.

Q. And about what size do you syndicate those bonds?

A. Last winter we made two offerings of five millions and one offer of two and a half millions.

Q. Now, you find that when you offer bonds in that amount, five million at a time and two and a half million at a time, in order to get those distributed at the hands of the investor, you have to go to a large eastern syndicate?

A. Yes, sir.

Q. And they fix the price at which you will pay, and you fix the price at which they will sell them?

A. Yes, sir.

Q. And the Minnesota investment or purchasing power of the individuals in taking up bond issues of that size is not a factor in determining their price or where they shall be disposed of?

A. It would be if the Minnesota investor was educated to that type of investment.

Q. But as the situation exists, the Minnesota investor, in respect to your bonds, is not sufficiently important so that you are enabled to sell these bonds here, and have to dispose of them in the East, and from there they are sent all over the country?

A. It has been in our bank. I understand there is a bank in Minneapolis which has disposed of a number of their bonds locally.

Q. There is another bank in Minneapolis?

A. Yes, sir.

Q. Other than the one that you have consolidated?

A. Yes, sir.

Q. And that bank has been able to put their bonds out to individuals there?

A. Yes, sir.

Q. Do the banks here buy any of those bonds?

A. I couldn't say whether those bonds are held by any banks here or not.

Q. You don't know what the distribution has been of the bonds of this other farm loan bank?

A. No, I don't.

HOMER B. CHASE,

sworn on behalf of defendant, testified:

By Mr. O'Brien:

Q. Mr. Chase, where do you live?

A. St. Paul.

Q. What is your business?

A. Statistician for the insurance department.

Q. Do all insurance companies authorized to transact business in Minnesota report to the insurance department of this state?

A. Yes, sir.

Q. You have their sworn reports?

A. Yes, sir.

Q. Have you made any tabulation with reference to the insurance companies transacting business in Minnesota organized under the laws of this state?

A. Yes, sir.

Q. What I think you call domestic companies?

A. Yes, sir.

Q. With reference to their holdings of securities?

A. With reference to their total admitted assets.

Q. Their holdings and securities are in their assets. Will you produce that tabulation?

Deft's. Ex. F, being tabulation referred to, introduced in evidence without objection.

Q. Are you sufficiently familiar with the assets of those companies to state what proportion of these assets consist

of mortgage loans on real estate in Minnesota, and bonds, municipal, United States bonds?

A. Practically the entire amount of assets.

The Court: Mortgage loans on Minnesota lands, United States bonds and municipal bonds in Minnesota?

Witness: Well, I am not positive as to the municipal bonds exclusively in Minnesota, but the majority of them are.

No cross-examination.

Recess until 2 P. M.

G. W. GOLD,

recalled on behalf of defendant, testified:

By Mr. O'Brien:

Q. Prior to the organization of the Southern Minnesota Joint Stock Land Bank were you interested in any other investment company?

A. Yes, sir.

Q. Was that company in existence in 1921?

A. Yes, sir.

Q. When did it go out of existence?

A. That company is still in existence with a change of name only since last March.

Q. Were you an officer of that company?

A. Yes, sir.

Q. In 1921?

A. Yes, sir.

Q. And what office did you hold?

A. Secretary.

Q. Do you know anything about the dealings of that company in Minnesota mortgages?

A. The main business of that company was making a sale of Minnesota mortgages, first mortgage loans on farms.

Q. And on the 1st of May, 1921, what were the outstand-

ing mortgages sold by that company on Minnesota property?

A. That company had approximately four millions of loans on their books for the past five years.

Q. That covered 1921 and 1922?

A. Yes, sir.

Q. To whom were those mortgages sold?

A. The most of them were sold to individuals and savings banks in the Twin Cities; in Minneapolis mostly, to individuals around the country locally and private investors, and some savings banks in Minneapolis.

Q. What proportion were sold to individual citizens of Minnesota?

A. About half of them.

The Court: These were Minnesota mortgages?

Witness: Yes, sir.

Q. I believe you said that bonds of the Land Bank in Minneapolis were sold to citizens in Minneapolis?

A. The last time I saw the executive officer of the First Trust Joint Stock Land Bank, he informed me that they had sold approximately four millions of bonds over the county in Minneapolis to Minneapolis citizens, bonds of the Joint Stock Land Bank.

J. D. ARMSTRONG,

sworn on behalf of defendant, testified:

By Mr. O'Brien:

Q. Mr. Armstrong, you reside in St. Paul, Minnesota?

A. I do.

Q. And what position do you occupy with the Merchants Loan & Savings Bank?

A. Merchants Trust & Savings Bank. I am vice-president and trust officer.

Q. And as such are you familiar with the dealings and transactions of that company?

A. Fairly so. I try to keep so.

Q. Will you describe the general course of business of that company in dealing in real estate mortgages?

A. Well, they have a mortgage loan department. We take loans on city real estate and farm lands. Generally speaking, on the city mortgages we secure them ourselves, they are made on personal application at the office. So far as farm loans are concerned, we secure them, as a general thing, from our correspondents, which are country banks; that is, the application comes through the country bank and is sent down to us to look it over. If we accept it or decline it, fixing, at the same time the amount of the loan that we are willing to make; if we are not willing to make the amount applied for; very much the same course is followed with respect to city mortgages except, as I say, most of the applications are made by persons directly to the bank, although we do get some from the smaller banks in the outskirts of the city, and also from some real estate men.

Q. And do you sell those mortgages?

A. Why, they are kept for sale, yes. We sell them from time to time, customers that come to the bank and want a farm or city mortgage, and our salesmen will take our list—

Q. Describe those customers, as to what class of persons they are.

A. Oh, they are very largely individuals.

Q. Individual citizens?

A. Individual citizens, yes. Then, of course, in addition to that, our bond and mortgage salesmen will go out and solicit purchases from individuals, and also from savings banks and other institutions.

Q. In a case where an individual calls at your place of business for the purpose of making an investment in a mort-

gage, you furnish that individual with a list or some statement of some mortgages?

A. Yes. We have our mortgages which are for sale listed in a loose-leaf book, each offering—a sheet covering each offering, showing the character of the property, the valuation as fixed by our appraisers—well, a description of all the elements perhaps that are necessary to enable a man to determine whether he regards that mortgage as a desirable investment or not.

Q. Will you, if you can, state the aggregate amount of mortgages upon Minnesota real estate outstanding on the 1st of May, 1921, which were sold by the Merchants Trust & Savings Bank to individuals, citizens in Minnesota, in the manner you have described?

A. I have the amount outstanding tabulated, Mr. O'Brien. On June 1, 1921, we had outstanding mortgages which we had sold, covering Minnesota farm lands and city property and which were unpaid, aggregating $3,308,500. Now, I cannot state what proportion of those mortgages were held by individuals or that were held by corporations or institutions. It would be rather difficult to arrive at that for the reason that they may change ownership after we have sold them, but we are able to keep a fairly close track of them by keeping track of the coupons, the mortgage interest, as they are presented. I think it is safe to say on an estimate that 80 per cent of those mortgages as the face amount of mortgages are held by individuals at the present time.

The Court: Residents of Minnesota?

Witness: Yes.

Q. Now, you also deal in bonds?

A. Yes, sir.

Q. Buy and sell bonds. What character?

A. Oh, almost every character. Public utility bonds, standard railroad bonds, bonds on industrial plants, and in

fact almost any bonds that we consider safely secured and worthy of offering to the public.

Q. Will you describe the way you would handle a large bond issue by some corporation, the bonds being secured by a trust deed?

A. We have floated a number of bond issues of that kind. Of course, there is the application made for a loan, and that is followed by an investigation. The investigation covers the character of the property offered as collateral, not only its cost value and replacing value, but also the situation as regards the business and earnings of the company, and the character of the men who have charge of the company's business. That investigation is rather exhaustive, and the matter takes some time. After that is done, why the investigation—or before that time, perhaps the rate of interest which we are willing to accept, the rate of commission is fixed if the affairs of the company meet our requirements, and, of course, if they do not, why we refuse to take it. After that is done, if everything is to our liking, we take the bonds and pay for them and put the trust deed of record, and then offer the bonds through our salesmen or through advertisements in the public press, by bond circulars which are sent out to a list of bond buyers.

Q. You maintain a mailing list of possible purchasers?

A. Yes, sir.

Q. Are those bonds ordinarily offered to individuals?

A. Sold to individuals.

Q. Yes.

A. Why, I should imagine they run about the same as our sales of mortgages. Occasionally we will have some concerns that will take almost the entire issue or the entire issue , but 75 or 80 per cent of them go to individuals.

Q. Could you give us an idea of the aggregate of bonds now outstanding secured by trust deeds to the company?

A. The bonds outstanding and secured by trust deeds to the company covering property in Minnesota is included in the figures which I have already given.

Q. You consider those as real estate mortgages?

A. Yes. Primarily that constitutes the greater portion of the security.

Q. How about municipal bonds?

A. Municipal bonds are bought from the municipality. We have two men who spend most of their time attending to bond sales of municipals throughout the state, and they are bought direct from the municipal officers having charge, county commissioners, etc., and they are brought in in the same manner and sold. I should imagine that the percentage of municipal bonds which are sold to institutions and corporations is a little in excess of the amount of mortgage bonds which are sold to corporations and institutions.

Q. To what extent?

A. Why, I wouldn't like to say without checking it up.

Q. Are they extensively invested in by individuals?

A. Yes, very largely. Trustees take a large number of municipal bonds, taken by men whose incomes are sufficiently large to make the purchase of the tax exempt security, desirable investment.

Q. What is the capital stock of the company you speak of?

A. $500,000.

Q. And that is held by the stockholders of the Merchants National Bank?

A. Yes, sir. Four shares of the Merchants National Bank stock carries with it one share of the Merchants Trust & Savings Bank.

Q. Are you familiar with the holdings of the stock in the Merchants National Bank so as to be able to say what proportion of it is held by Minnesota citizens?

A. I couldn't say; I don't know; I have never checked it up.

CROSS-EXAMINATION

By Mr. Ryan:

Q. Mr. Armstrong, are the shares of the Trust and Savings Bank so held that they must be transferred with the Merchants Bank stock?

A. They are, Mr. Ryan. The stock is held in trust by three trustees for the benefit of the stockholders of the Merchants National Bank.

Q. And your company is a trust company and savings bank combined?

A. Organized under the laws of Minnesota.

Q. Now, you say that as to farm mortgages which you have procured, they are mostly gotten through applications made to local banks, and that those local banks throughout the state include national banks as well as state banks, do they not?

A. Yes, they do.

Q. Now, in loaning money on real estate in the city, do any of those applications come from or through the Merchants National Bank?

A. No, I would not say so. They may send people down who are up talking with them to us to borrow money on real estate. And let me make clear the function of the country banks. Those mortgages are all taken on our blanks by the country banks; that is, they simply write in to us, sending in an application saying that some farmer doing business with them is destrous of securing a loan on his farm, and they make out an application for that loan which is sent in to us and scrutinized, and if we feel that the amount asked is reasonable and the property good security, then we make out the mortgages and notes and send them back

to the country bank, who tends to the signing of the notes and the execution of the mortgages, and the checks are then sent up when the mortgages and notes are received.

Q. Do the mortgages run to the local bank or—

A. No, they run, in nearly all cases, to the Merchants Trust & Savings Bank. There may be some mortgages occasionally which run in the name of the local bank which they are carrying in their assets and which they desire to sell. For instance, they might keep a portion of the deposits invested in mortgages of that kind or a portion of their capital.

Q. In respect, then, to those farm mortgages, you only get those which the local banks do not desire for themselves?

A. I wouldn't say that, Mr. Ryan. We get some in other ways, but the capacity of a local bank, a bank in the ordinary farmers' town, to carry any great amount, it is too limited to carry any great amount of mortgage.

Q. You get these involving investments over and above which they were able to make?

A. Yes, I think that is a fair way to put it, at least I hope that is the situation.

Q. Well, it would seem that that would be the situation. Now, as to your relations with the Merchants National Bank, there you think on city loans you might get such application for loan as would be presented to the Merchants National Bank, those officers would refer those applications to you for execution and completion, would they not?

A. Well, nearly all the applications are made to us direct, but it may be that some man who is personally acquainted in the Merchants Bank among the staff there would go to him and speak to him with regard to a real estate loan, and, of course, he is referred down to the Trust Company. In other words, the function of a commercial bank is to make short-time loans to merchants and people engaged in business. I would not like to say what propor-

tion of loans to a national bank was secured by mortgages, because I do not know, but as a general thing, the amount of loans which they make on mortgages is a very small portion of the amount of money they have outstanding in commercial paper.

Q. The business, then, which you do at the Trust Company, you feel is quite a different business than is done at the bank?

A. Yes, to this extent, their business is purely commercial banking.

Q. And isn't that quite true of all of the banks of St. Paul, the national banks, that their business is a commercial business, and it is a business of quite a different type than the business conducted by the Trust Companies?

A. Well, the Trust Company loans entirely on collateral. They are all principally mortgage security. I think our loans run for a longer period of time. The National Bank or commercial bank loans on short-time paper.

Q. That is, at least what they all seek to do, is it not?

A. I should imagine so.

Q. They want short-time paper and loans of a commercial character, and you want long-time investments?

A. We are loaning money for the purpose of selling the mortgage; they are loaning money for the purpose of giving credit to the people who want to borrow.

Q. And isn't it your judgment that the situation existing there at the Merchants National Bank and the Merchants Trust Company, particularly, is one in which one banking association is not in competition or in rivalry with the Trust Company, but one supplements the work of the other?

A. That is rather a hard question to answer. We work together, Mr. Ryan, if that is what you mean. To a certain extent one supplements the other.

Q. Well, you don't feel that it injures the business of the national bank in that there are companies existing which

make long-time loans, create securities and put them in the hands of individuals desiring to invest their funds?

A. Well, there is a field for both of us or else we would not be existing.

Q. And do you believe that there is any appreciable conflict between those engaged in the ordinary commercial bank business and the company engaged in the permanent investment business?

A. Oh, I wouldn't say that there is a conflict. Of course, there is competition between them in some ways. It all comes down, after all, to the desirability of either taking a long or short loan, that is, the man borrowing for a short term or borrowing for a longer term.

Q. Well, can you think of any tangible way in which the business conducted by your Trust Company adversely affects the business conducted by the Merchants National Bank, for instance?

A. I wouldn't say that our business was adverse to their business in any way.

Q. Can you think of any tangible way in which the business conducted by your company adversely affects the business of any national bank?

A. Oh, generally speaking, I should say not.

Q. That would be likewise true, that it would not adversely affect the National Banks of the state outside of St. Paul?

A. No, I wouldn't like to say. I don't know how the country banks run their business.

Q. It is also true, is it not, that these mortgages that you put out, and the bonds which you sell, go into the hands of individuals who put into them their surplus funds and who buy these mortgages and bonds, not with a view to reselling them at a profit, but with a view to deriving from their excess funds the interest—

A. They buy them for investment, Mr. Ryan, I think, or as investments.

Q. I use the word "investment", and I think you do, as indicating a purpose to hold them until maturity rather than for the purpose of selling them at a profit.

A. Well, they buy them for the purpose of securing the income from them rather than buying them as a speculation.

Q. And you can say that that is almost wholly true, that a purchase for a speculation or a purchase with a view to resale would be an accidental—

A. No, I wouldn't say that.

Q. Or an insignificant one?

A. In mortgages I think that perhaps is largely so, but bonds, you will find institutions sometimes that will have the amount of cash on hand which they might want to reserve for certain purposes. They might buy bonds in order to hold those funds and have them earning something until the time comes when they want to use the—

Q. These purchases which you now refer to are usually purchases by corporations?

A. Yes, but occasionally you may find the same thing in individuals.

Q. Occasionally an individual business man, who has a large business and who has some idle capital in his business, may buy bonds?

A. Buy bonds as a temporary investment.

Q. But that particularly in cases of individuals would be insignificant in comparison to the bonds sold?

A. Well, I don't know that it would be insignificant; it would be a small portion.

Q. The business of the Trust Company, in dealing in farm mortgages and in bonds, is not appreciably different, is it, than such investment companies as the Wells-Dickey Company, which I presume you are familiar with?

A. Yes, I would say that they more nearly resemble the Wells-Dickey Investment Company. The Wells Company is purely an investment company.

Q. That part of your business to which you have referred, the part of which you deal in farm mortgages and in bonds, is not to be differentiated from that business of the Wells-Dickey Company, which deals in farm mortgages?

A. I should imagine, as far as their taking mortgages were concerned, or as far as their buying bonds and selling bonds were concerned, that our business runs along a good deal the same lines.

Q. Take in 1921 and 1922 particularly, there was no difficulty in loaning money, was there?

A. There is never any difficulty in loaning money.

Q. Loaning money out, and that was particularly true during those two years, there was a greater demand for money than the loaning capacity of the banks and the trust companies could supply, was there not?

A. Well, I don't know about that. After all, the loaning of money is very largely a matter of security and a matter of confidence, and the character of the man who wants to borrow. There are some men whose obligations we would not care to have under any circumstances, and perhaps others that we would be willing to take their obligation, because you know that if they live they will work it up. There are always plenty of applications for borrowing money.

Q. As you have indicated, the rate of interest is not the most important factor?

A. Well, the rate of interest fluctuates.

Q. For instance, if I came to your Trust Company and offered to pay you a large rate of interest, that would not induce you to loan it to me?

A. No; that is, I would not loan it to you without that inducement.

Q. The factor of security is the main consideration, is it not, for loaning that money?

A. I think that is peculiarly true of the securities you take for the purpose of resale because you assume a moral responsibility at least for what you are offering, and we would not loan money and offer those bonds unless we were reasonably certain that the interest would be paid and that they would be paid on maturity. We could not affort to do otherwise. After all, the question of interest rate is a matter of what the going rate is and the question of on what basis the purchasers are willing to buy those bonds.

Q. Now, take during 1921 and 1922, was there any appreciable fluctuation in the going rate at which money was loaned on mortgage security or land security?

A. Yes, there was. I would say that during 1922 we got a higher rate of interest than we are getting now, and possibly that we were getting in 1921?

Q. 1921 and 1922 were abnormal years in the banking business, were they not? The rates of interest were higher than they were in years preceding?

A. We were loaning money on farm mortgages in southern Minnesota at five per cent at one time, and there have been times when they paid seven per cent.

Q. Well, do you know whether there was any great fluctuation in 1920 and 1921 in the rate of interest payable on commercial loans to the banks?

A. I think the rate was higher in 1922 than it was in 1921; that is my recollection. We do so little commercial loaning. After all, the rate varies with individuals.

RE-DIRECT EXAMINATION

By Mr. O'Brien:

Q. Mr. Armstrong, money is a commodity, is it not?

A. I think so.

Q. One man takes an investment in the shares of stock of a national bank; another man makes an investment in the shares of stock of a state bank; another man invests his money in a manufacturing concern; another man makes an investment in the capital stock of a commercial concern; and some one else will purchase mortgages and invest his money in mortgage security, others in bonds, municipal bonds and government bonds; is that all true?

A. Entirely so.

Q. Now, is there not a certain amount of inter-locking of expenditures between all of those investments?

A. There must of necessity be, because they all involve the expenditure of money.

Q. If the public or borrowers could obtain money upon real estate mortgages at two per cent, would it be possible for the banks to maintain their rates or the rates of five or six or seven per cent?

A. Obviously not.

Q. You should say not?

A. That is, if a man could borrow money at two per cent, certainly the banks would not be able to exact six and seven per cent from a man who has sufficient real estate to borrow on mortgage.

Q. So, eliminating investments in industrial occupations, and confining your statement to investments in either shares of stock or purchase of bonds or mortgages where the return is to be interest upon the money, is not all that money in competition?

A. Always.

Q. Necessarily?

A. It must be.

RE-CROSS EXAMINATION

By Mr. Ryan:

Q. That is true in the sense that all money of every kind is in competition everywhere, as in every sort of an investment?

A. Why, I think so.

Q. Everything of value competes with everything else of value?

A. A man who has money is always seeking something to bring a return on and it is all in competition so far as the buying of securities or the loaning of money out.

Q. And a man who is buying real estate is affecting that money which is being loaned on real estate, in some measure, is he not?

A. Well, I don't know about that. Real estate is pretty slow.

Q. There isn't any limit to the proposition that—you say that money is always in competition with other money seeking investment. You can't stop and say at any point—

A. No. Real estate, as a general thing, they are either buying it for the purpose of improving it or else buying it as a speculation; that is, real estate is more or less of a permanent investment always,—put real estate investments in rather a different class from stocks and bonds and mortgages.

Q. If I buy the Commerce Building across the street, that tends to set figures on valuations all about there, does it not?

A. Yes.

Q. In the same degree?

A. Mr. Ryan, you are not borrowing money, you are buying it.

Q. This is the next step I am getting at. The man across the street is borrowing money. The question of that

loan is going to be affected by this sale of real estate across the street, is it not?

A. It might be. That is, the value of the money he pledges—the security that he pledges might be affected by the market value of the property in the vicinity, and your market value might perhaps be affected or the value of your real estate by the sale of an adjoining or contiguous property.

Q. So that the general proposition of competition would extend even to that extreme?

A. Yes; not to the extent that it would in making loans of money.

Q. It is not so appreciable. It is true that the man who makes an investment in the shares of stock of a railway company affects the investments in shares of stock of every other kind of a corporation?

A. I don't know as it affects—it probably takes that particular money out of the market for investment.

Q. It takes it out of the market?

A. Yes, sir.

Q. That would be true. You say that it may be said that the money invested by an individual in a farm mortgage comes in competition with money which a man may invest in a share of stock in a National Bank, which is just as far away, isn't it?

A. Well, that is getting pretty much into the realms of theory. Of course, any money which is invested in any security for the present time is out of the market for the buying of other securities.

Q. And that is the extent, is it not, of the competition to which you referred?

A. Well, you are taking extreme instances. Of course, money is always looking for a chance for investment. At times there is more demand for money than there is money to supply it. We have seen those times here. The Federal

Reserve Bank, of course, added very largely to the loaning capacity of banks, but generally speaking, there is always money seeking fields for investment.

C. W. GORDON,

sworn on behalf of defendant, testified:

By Mr. O'Brien:

Q. Mr. Gordon, you reside in St. Paul?

A. Yes.

Q. And you are president of the corporation of Gordon & Ferguson?

A. Yes.

Q. What is the business of that corporation?

A. Manufacturing, selling of sheep-lined coats, furs, hats, etc.

Q. In the conduct of your business are you required to borrow money?

A. Yes.

Q. And you are also a director of the First National Bank, Mr. Gordon?

A. Yes.

Q. How long have you been connected with the corporation of Gordon & Ferguson?

A. As an official?

Q. Well, in any capacity?

A. Twenty-one years.

Q. As a director have you been familiar with the commercial situation in St. Paul generally?

A. Yes.

Q. And to some extent with the condition of the other commercial houses in St. Paul?

A. Yes.

Q. And do you know the practice generally of those houses to borrow money?

A. I think so.

Q. Now, from what sources do the commercial houses of St. Paul, including your own, Gordon & Ferguson, borrow money?

A. They borrow of the banks here, banks in New York and Chicago, through commercial brokers. It is the habit of our corporation, when they need money, to borrow it where they can get the best rate, the best terms.

Q. It is the practice, is it not, for each established commercial house, to have a definite line of credit in one or more banks?

A. Yes, in the banks that they do business with, that is, the banks that they deposit with.

Q. And the corporation of Gordon & Ferguson has such a line of credit?

A. Yes.

Q. State whether or not it is the practice to exhaust that line of credit before borrowing money through commercial brokers that you spoke of?

A. Speaking for ourselves, as a general thing, no, because we borrow our money where we can get it the cheapest, and as a rule, when we are borrowers, we can borrow to better advantage through note brokers or through our bank in the East.

Q. Are there note brokers in Minnesota engaged in that business?

A. Yes.

Q. How many concerns do you know of in Minnesota that are engaged in the business of—

A. In Minnesota?

Q. Yes.

A. At least two.

Q. That are operating here?

A. Yes.

Q. Do you know the custom of those brokers with reference to recalling the paper so taken?

A. They buy our paper and sell it to the banks—country banks, or anybody that wants it.

Q. Would you have any objection to stating the amount of money the corporation of Gordon & Ferguson borrowed through brokers during 1921?

A. I can give you the approximate amount; will that do?

Q. Yes.

A. About a million dollars.

Q. And during that same year, how much money did you borrow from the banks in Minnesota, that is, the corporation?

A. About $200,000.

Q. What was the situation with reference to 1922?

A. I think in 1922 we borrowed a little less of the brokers and a little more of our banks.

Q. What do you mean by a little less?

A. Oh, $200,000 less.

Q. And how much more from the banks?

A. About $200,000 more. That was not all in St. Paul, though; some of it went to New York.

Q. That would be $800,000 from brokers and $400,000 of the banks during the year 1922?

A. Yes.

Q. And on the 1st day of May in each of those years, could you give us an idea of how much of that was out?

A. Well, it will be just an approximation. It wouldn't be very much. I should say our total loans, on the 1st of May were around $600,000.

Q. And in the proportion between brokers and the banks that you have given?

A. Well, that would vary; it would depend on where we got the—

Q. The 1st of May, 1921, or the 1st of May in each year?

A. Approximately the same.

Q. In each year?

A. Yes.

Q. Are you able to give an approximation of the amount of money that is loaned through brokers to commercial houses in the State of Minnesota each year?

A. No. It is too much that I wouldn't attempt to give.

Q. Would you attempt to give the minimum?

A. It is easy around forty million dollars, maybe more.

Q. That is outside of the loans made by banks?

A. Oh, yes.

CROSS-EXAMINATION

By Mr. Ryan:

Q. Mr Gordon, you are a director of the First National Bank?

A. Yes.

Q. And a stockholder of the bank?

A. Yes.

Q. Of course, you are interested in the success of the bank?

A. Yes.

Q. Your company carries its deposits with the bank?

A. Part of them, not all of them.

Q. You do carry deposits in some other bank than the First National Bank?

A. Yes.

Q. Is there any special reason for that, for carrying deposits with the other banks?

A. We want to have bank clients. What I mean, lines of credit in more than one bank, and we want to have the competition of each bank against the other, so we carry deposits in three or four banks—three banks at the present time, so when we want money we can go to those three banks,

plus the note brokers, and get quotations for the amount that we may want.

Q. It is true that, say, at the First National Bank, your line of credit would be necessarily limited by the federal laws?

A. Yes.

Q. They would only loan you a certain amount of money?

A. Yes.

Q. And you are frequently in the market for more money than that bank may lawfully loan you?

A. I will answer that question in another way. We have a certain line at the First National Bank, for instance. At the present time we are at the peak of our borrowing and our loans are a little more than one-third of our line.

Q. That is, at the present time?

A. In other words, if we wanted \$200,000—\$250,000 of the First National Bank, if we needed it, that line, so-called, would be open.

Q. Taking these figures, I gather that in 1921 you borrowed as much as a million dollars.

A. Of note brokers.

Q. You borrowed it?

A. We borrowed more than a million.

Q. You required that much money?

A. Yes.

Q. But you couldn't have gotten that at the First National Bank, could you?

A. We could have gotten it of the banks that we deposit with, though.

Q. The First National Bank—take that singly—could not have lawfully loaned you that much money?

A. No.

Q. But the three banks with which you did business could lawfully have loaned you that much money?

A. Yes.

Q. It is ordinarily true, is it not, as a general proposition, that a house such as yours would not expect to be able to borrow money from a bank with which it did not carry any of its deposits?

A. No, that is not true.

Q. Well, that would not be true as to your concern, but it would be true as to any but a few of the very large concerns, would it not?

A. We have had in the past eighteen months several letters from banks in Chicago offering us money.

Q. I am speaking of local banks.

A. And banks in St. Paul.

Q. Others than those with whom you deposit?

A. Yes.

Q. But generally it is true, is it not—

A. No.

Q. —that a man may not expect to borrow money at a bank with which he does not carry an account?

A. No, that is not true.

Q. That would not be true as to very large concerns, I agree.

A. No.

Q. It is not generally true?

A. No. If a man's credit is good he can borrow wherever people have money to sell and want to loan.

Q. You say you borrow money from eastern banks?

A. Yes.

Q. And when you want to borrow money you make it known to the eastern banks with whom you are acquainted that you are in the market for that much money, and you make it known to your three banks with which you do business here, and in addition to that, you go to the broker?

A. We go to every place we think we can borrow money cheap, the same as we buy merchandise, exactly.

Q. Who are these brokers? Are they individuals who engage in that business or are they corporations?

A. Some of them are individuals, some of them are corporations.

Q. I understood you to say that there were two that—

A. I said there were two here in the city. There may be more.

Q. I assume that you have only described those with whom you were acquainted or that you knew of? You know of two here?

A. You want the names?

Q. No. Are the two here individuals or corporations?

A. Corporations.

Q. They are both corporations?

A. Yes.

Q. Now, on the occasions when you were procuring the loan from those brokers, what did they do with the money or with the paper that you issued, do you know?

A. What did they do with it?

Q. Yes.

A. They sell it.

Q. They sell it to whom?

A. I don't know. That isn't any concern of mine at all. I will give you an instance of that if you will allow me. Frequently I am offered paper of concerns through note brokers that I know, and if they are good and I happen to have the money, I will buy that paper. It is offered to individuals and to banks—to anybody—that these note brokers have on their lists that they know or think is desirable paper.

Q. Have you any idea how much of that goes to the banks?

A. To the country banks?

Q. Yes.

A. I should think 75 or 80 per cent of it, but I have no means of knowing. That is just my impression.

Q. But you have the impression that it is generally true that these brokers expect to split those sums and put them in the hands of banks, usually in the country, who have funds to loan?

A. Yes.

Q. Isn't it a pretty fairly accurate statement to say that so far as that loan brokerage is concerned, it operates to enable the small country banks to compete against city banks for commercial loans in the city?

A. No.

Q. That wouldn't be the result of it?

A. No, because a small country bank can write us—they do frequently—and ask for loans. It makes it easier for them of course, but it doesn't prevent their getting our paper or anybody else's paper if they want it.

Q. No, I don't say that it operates to prevent them from doing it. I say it operates to enable them to get it.

A. If they want it.

Q. In that sense, you say that 75 or 80 per cent of it finds itself into the hands of the country bankers, that the conclusion would follow that this system so works as to enable the country banks to participate in the commercial loaning in St. Paul?

A. Yes. They can buy the paper if it is offered to them, but it is purely permissive with them, they don't have to.

Q. Do those note brokers offer, as a rule, longer term loans than the local commercial banks do?

A. No, I don't think so.

Q. Aren't they more willing to take commercial paper running a year, for instance, than the ordinary commercial bank is?

A. We never made commercial paper running a year, so I can't answer that question, but I think any bank that

took paper running for a year would be in the ash-can in a very short time. Six months,—ninety days and six months are the ordinary time.

Q. You don't think that there is any difference in that respect between the willingness of a broker to take, say, the six months paper than there is on the part of the banks to take six months paper?

A. No, I don't think so.

Q. The bank more inclined toward six months paper and the broker more inclined toward six months paper. As between the two of them, isn't the commercial bank more inclined towards three months paper and the broker, on the other hand, more inclined towards six months?

A. The bank may be inclined for three months paper, but if it is after business it will have to take what is offered to them providing it is sound.

Q. But I don't think you appreciate my point, that the preference of the bank is for the three months paper, the preference of the broker is for six months paper.

A. The preference of the broker is for the best paper you can get. He couldn't lend any of it if he didn't lend it for six months, because sometimes they take it for ninety-days, but they would like ninety-day paper. We have frequent offers of brokers in New York, for instance, and in Hartford, for ninety-day paper. Banks want maturities at a certain time to meet certain obligations that they think they are going to have, and they will buy paper based on the maturing as of that particular day. At other times they would be willing to take it at six months, but you are right in this, that the majority of paper that goes through note brokers is six months' paper.

Q. You deal with the eastern banks in that competition?

A. Yes.

Q. Is it true that the rate on that paper is largely fixed by the eastern money centers?

A. No.

Q. They don't set a competitive price as to money loaned?

A. There have been times in borrowing money when the East is hard up and the West is the place, and sometimes the reverse is the case, and at other times things are equal as they are at the present time. It just depends on how eager people are for business. We had an instance of that this month. Banks wanted to loan us money; we asked for quotations and we got a better rate than we could get at our banks, and we took it somewhere else.

Q. This is true, is it not, that the money market in Minnesota is quite independent of the money market of the East?

A. No. In 1920 the money market of Minnesota was independent of the money market of the East.

Q. How about 1921 and 1922?

A. 1921 and 1922 were different years. I think each district stood fairly on its own resources. Now, you are getting into intricate banking questions, and I am a little off in my dates, but you will remember there was a time when the ninth federal district (which is this district) would loan money to, we will say, Number 6, but that was the Federal Reserve that did that to help them out; and of course in times of stress, such as we had in 1920, if you could get rid of money any where, you could then, but those things don't occur. Those are times when that only happens to us once in twenty or twenty-five years, but in the ordinary conditions of business, one section is independent of the other.

Q. Well, I was only drawing the conclusion from the statement that when there is competition between the banks in St. Paul for it and the brokers in St. Paul for it and the banks in Chicago and New York.

A. Yes.

Q. And it struck me that that meant a gathering of those concerns into a single money market, one competing against the other to loan that money to you.

A. I don't get your question yet. We go into the market, we will say, for $100,000, and ask for quotations. It don't make any difference where they come from, the lowest quotation gets it. Does that answer it?

Q. Yes. And those quotations come from money markets of Chicago and New York?

A. No, I didn't say that. I said the lowest quotation got it.

Q. But the quotations come from those sources?

A. No, they don't. Sometimes they come right from St. Paul.

Q. I gather from your testimony that you said you asked for and got bids on money from New York and from Chicago?

A. I did. I didn't say I borrowed the money from there, though.

Q. No, but you got quotations on it?

A. Absolutely.

Q. Did you ever borrow any money from either of those markets?

A. Yes.

Q. So that sometimes they do get it?

A. Yes.

Q. And the ability of the banks here to loan money to you is affected by what the banks of Chicago and New York are willing to loan money to you at?

A. No. You don't make your question broad enough. The ability of the banks to loan money here is based on the offers we get from New York and Chicago and Minneapolis and the note brokers in Chicago and New York. Now sometimes the note brokers here are lower than the ones in New York and Chicago. It is just a question of how the country

banks are feeling and how their clients are able to buy and what they want.

Q. I think that is clear enough. How do you make your estimate of forty million dollars over the state of loans negotiated by brokers?

A. An estimate of about our own borrowings and what I know about other concerns, what I told you, it is purely an estimate, but I think I am within the figure.

Q. You mean that it is not a mere guess, that you know other concerns, you have discussed these matters with other men in business and you know something of what they are doing?

A. Yes.

Q. And you feel that that estimate is accurate?

A. Yes.

RE-DIRECT EXAMINATION.

By Mr. O'Brien:

Q. Mr. Gordon, is it the habit of large commercial institutions to occasionally borrow money from their own members or employes?

A. That we borrow money from our employes?

Q. I asked you whether that was a habit with commercial institutions like your own?

A. No.

Q. To borrow money from the individual members?

A. You mean that we borrow money from our employes, —is that your question?

Q. Either your officers or your employes or directors, to leave money with you on deposit.

A. Sometimes they have a small deposit with us, but we do not want any of those loans.

Q. What does it amount to in the case of your corporation, money of that sort?

A. You mean money that is on deposit with us by officers?

Q. By individual officers or members.

A. It varies.

Q. Well, about how much?

A. Well, around one hundred or one hundred and fifty thousand dollars.

Q. That is the average amount that is there?

A. Yes.

Q. You pay interest on that?

A. Sure—don't get it for nothing.

RE-CROSS EXAMINATION

By Mr. Ryan:

Q. Do I understand that your employes deposit in the aggregate of $150,000 with your company?

A. No, that is not what—the officers and employes. Sometimes I have got a sum of money on deposit and then I will make an investment and draw it out. I let it stay on deposit with Gordon & Ferguson because I can get a better rate of interest than I can by depositing in the bank, that is all. I might have fifty or sixty thousand dollars there for two months and then buy some bonds and have nothing.

Q. What is the portion of that fund deposited by the ordinary employes of the company?

A. Well, that varies. I can give you an illustration. We give our traveling men commission on their sales, and in certain months when we are doing a large business, those commissions mount up to quite a volume. Those men will let those commissions run until the first of the year and then take them, and they vary. A good part of that would be the commissions of the traveling men. They know they are allowed to draw five per cent, or whatever the going rate is.

the bank rate, we give them, and it makes one settlement instead of making a settlement every thirty days; it makes it easier for us and easier for them.

C. O. KALMAN,

sworn on behalf of defendant, testified:

By Mr. O'Brien:

Q. Mr. Kalman, you are a resident of St. Paul?

A. Yes.

Q. And have lived here how long?

A. Forty-two years.

Q. What is your business?

A. Investment banker.

Q. What is the name of your firm?

A. Kalman, Gates, White & Co.

Q. Is that a corporation or a copartnership?

A. Copartnership.

Q. And the business of that company is principally dealing in bonds, is it not?

A. Yes, bonds and investment securities, stocks.

Q. Do you deal in mortgages?

A. No, not direct mortgages. We deal in mortgages where there is a trust deed and bond issue against it.

Q. You deal in United States bonds?

A. Yes.

Q. Municipal bonds?

A. Yes.

Q. Corporation bonds?

A. Yes.

Q. Dealing in them. I understand you buy bonds and resell them.

A. Yes, sir.

Q. How long have you been engaged in that business in St. Paul?

A. About twelve or thirteen years.

Q. Has it been necessary for you to inform yourself as to the general market for securities of that sort?

A. Yes.

Q. In the public market?

A. Yes.

Q. And the amount of those securities that are issued in Minnesota?

A. You mean money borrowed in Minnesota?

Q. Has it been necessary for you to inform yourself as to municipal bonds issued in Minnesota?

A. Oh, yes.

Q. And certificates of indebtedness?

A. Yes, sir.

Q. And of corporation bonds?

A. Yes.

Q. And it has also been necessary for you to familiarize yourself with the market for the purchase of those bonds outside of the dealers. From all of the studying that you have made of that subject during the years that you have been engaged in business, are you able to give an estimate as to the aggregate bond sales to individuals in Minnesota each year? I don't mean by your copartnership, I mean sales in Minnesota.

A. I never have seen any compilation. The Federal Reserve Board made a compilation of the sales of mortgages and bonds in the ninth district. Of course that also included interstate sales where one dealer sells another, but that ran up into five or six hundred millions a year. I could give you the minimum figure. I would say that the amount of securities sold to Minnesota investors in a year is considerably in excess of fifty million dollars.

The Court: That is for bonds and mortgages?

Witness: Bonds and mortgages, yes.

Q. Are you including mortgages in that?

A. Yes.

Q. I only asked you about bonds.

A. Well, I would say the bonds alone would be in excess of fifty million dollars.

Q. Outside of this tabulation of the Federal Board, you know nothing about mortgages especially, do you?

A. No.

Q. That is not part of your business?

A. No.

Q. So that you think bond sales in Minnesota to investors exceed fifty million dollars?

A. Considerably, yes.

Q. Now, What proportion of those sales are to individual investors, in your judgment, individual citizens of Minnesota?

A. 75 per cent.

No cross-examination.

A. W. LINDEKE,

sworn on behalf of defendant, testified:

By Mr. O'Brien:

Q. Mr. Lindeke, you reside in St. Paul?

A. I do.

Q. And of what company are you a member?

A. Lindeke-Warner & Sons.

Q. Is that a corporation?

A. Corporation.

Q. Engaged in the wholesale dry goods business of the city of St. Paul?

A. Yes.

Q. And also manufacturing?

A. Yes.

Q. How long have you been connected with that corporation?

A. Since 1894.

Q. Did you say you were president of the company?

A. President and treasurer.

Q. In the course of your business is it necessary for you to obtain lines of credit from the different banks, in different banks in the city of St. Paul?

A. Yes, sir.

Q. And elsewhere?

A. And elsewhere.

Q. Where have you lines of credit?

A. Direct lines with our own banks?

Q. Yes.

A. St. Paul and New York.

Q. State whether or not, in addition to that, it has been the custom of your corporation, for many years past, to borrow money through selling promissory notes that come to the brokers.

A. It has.

Q. Would you have any objection to telling how much money you borrowed of brokers in the year 1921?

A. Well, I don't care to state, unless it is desirable. Several million dollars, I would say.

Q. Are you sufficiently familiar with the way in which the mercantile and manufacturing business is carried on in the state of Minnesota, to form an estimate as to the amount of money that is loaned those various concerns upon their unsecured promissory notes through note brokers?

A. It would be a guess.

Q. Well, is it a guess or your judgment upon which you think is good enough so that you could really take some action upon it, giving the minimum?

A. Well, I would say in excess of one hundred million dollars.

Q. Now, that money from the brokers flows into the various banks, does it not?

A. Yes.

Q. And in some instances to individuals?

A. Yes.

Q. Or do you know about that?

A. Well, a very small per cent to individuals.

Q. Finally the borrower pays to the person to whom the note has gone, through the broker, does he not?

A. Yes.

Q. So that you are familiar with the force of that paper. Do you know whether or not it is the habit of large business institutions to receive deposits from their officers or employes or members of the firm?

A. It is quite customary.

Q. Have you any idea to what extent that is carried on?

A. With Lindeke-Warner & Sons?

Q. Well, I don't like to ask you about the details of your own business.

A. I should say to a very small extent.

Q. But there is some money of that sort that is loaned by individuals to those institutions?

A. Yes, there is.

Q. The extent of it you don't know?

No cross-examination.

BENJAMIN SOMMERS,

sworn on behalf of defendant, testified:

By Mr. O'Brien:

Q. Mr. Sommers, are you an officer of the corporation of G. Sommers & Co.?

A. I am.

Q. What office?

A. President.

Q. And are you familiar with the transactions of that company?

A. I am.

Q. That company is a wholesale mercantile company in Minnesota?

A. Yes, sir.

Q. Also doing a large mail order business?

A. Yes, sir.

Q. In the course of business of that company is it necessary that it borrow money?

A. Yes, sir.

Q. And from what sources does that company borrow money?

A. From our banks and through note brokers.

Q. Do you also have deposits with you made by the officers or employes or members of the company?

A. We have what we call a savings account. That was gotten up a good many years ago for the purpose of fostering savings amongst the employes. They deposit with us, yes, and the officers also.

Q. Are you familiar with the course of the other mercantile establishments in Minnesota with reference to borrowing money?

A. Fairly so, yes, sir.

Q. And with the manufacturing establishments of the state?

A. Yes, sir.

Q. From all of your information and knowledge of the course of those companies, firms and corporations, are you able to form an estimate as to the amount of money that is borrowed by them in the aggregate in any one year through note brokers?

A. I have no information as to the exact amount, but I should imagine it would be very large.

Q. What do you mean by very large?

A. You mean in the state of Minnesota?

Q. I mean how much money is borrowed by mercantile, manufacturing and business establishments in the state of Minnesota through note brokers.

A. Well, I should say, making a guess, it would be in excess of $100,000,000.

Q. Each year?

A. Yes. Of course in active years it is more than when business is not good.

Q. It is the practice of business concerns like your own to have established lines of credit with one or more banks in the state of Minnesota?

A. Yes, sir.

Q. Do you know what the habit is with reference to resorting to that line of credit or the note brokers first?

A. I think we get it from the note brokers first.

Q. Is it not true that it is the object of practically every mercantile institution to maintain a pretty large margin in its borrowing from the banks and its line of credit?

A. Yes. Could I explain that a little?

Q. Yes.

A. Well, when you are establishing a line of credit with a note broker, the first question he asks you is, "How large are your lines of credit with your banks?" The note broker wants to be sure that you have a sufficient line open with your banks to take care of his paper if he can't renew it in times of stress, so he asks you, "How large are your lines of credit with your banks which are open?" And he wants you to keep open so that you can take care of the business that you do with him in case the banks won't buy the paper.

Q. When you speak of open, you mean the difference between the total line of credit in a particular bank and the amount that you borrow against that?

A. Yes.

Q. Without going into any details of your business, could you give us a minimum of the average borrowing by

the corportion of G. Sommers & Co. from note brokers in any one year?

A. Well, there are times when we try to have all our payments made in the course of the year. You don't mean that, you mean the average during the year?

Q. Yes, the minimum.

A. Oh, I should think $600,000 would be the minimum.

Q. That would be the minimum at any one time?

A. Yes, except at the end of the year when we try to pay it up.

Q. What would be the minimum borrowed during the year?

A. I think that same answer.

Q. If at any one time your minimum was $600,000—you are constantly paying it back, are you not?

A. Yes.

Q. What would be the total of those borrowings?

A. That depends upon the activity of the year. The total of the borrowing might be several times that much.

CROSS-EXAMINATION

By Mr. Ryan:

Q. Where are the brokers with whom you do business located?

A. We deal with two firms,—one firm in New York and one firm in Minneapolis and St. Paul.

Q. And when you apply to a note broker for a loan, you apply usually simultaneously to your New York note broker and your local note broker, do you not?

A. Well, we see where we can get the best rate, either there or at our banks.

Q. Now, when you say that the aggregate loan through note brokers in Minnesota was 100 million dollars, can you

give us an estimate as to about how much of that was loaned through Minnesota brokers?

A. I can't tell you in Minnesota. I know that there is a firm of brokers in Minnesota. We do a business some years of 100 million dollars, but I don't know whether they sell their paper all in Minnesota.

Q. When you negotiate a loan through your brokers, do you pay them a commission?

A. We do.

Q. The compensation of the broker is usually a commission?

A. A brokerage fee, yes; commission, yes.

Q. Then, what this broker really undertakes to do is to place your paper, and does it for a brokerage fee?

A. Yes, sir.

By Mr. O'Brien:

Q. Do they pay the proceeds of the note in the first instance or wait until they sell it?

A. They pay in advance.

Q. They pay it and place it where they can?

A. They sell it for anything that they can get for it. Sometimes they sell it for less money than we paid them and they make an additional profit.

Q. They buy your paper and sell it for what they can?

A. Yes. If we make a rate for them, agree to pay 5¼, and if they can dispose of that note for 5 per cent, they will do it, but ordinarily they dispose of it at the rate that we have agreed upon.

Q. I am asking whether they act as your agent in placing the paper and pay you the proceeds of the note after they have sold it, or whether they—

A. We sell it to them outright.

Mr. Ryan: It is, is it not, ordinarily and usually true, however, that they place that paper at the rate of interest

which they exact from you and that their compensation is the brokerage fee?

Witness: I think that is the ordinary case, but I have known of cases when they have made money on the notes themselves.

R. B. SHEPARD,

sworn on behalf of defendant, testified:

By Mr. O'Brien:

Q. Mr. Shepard, you are the president of the firm of Finck, Van Slyck & McConville Company, of this city?

A. I am the treasurer.

Q. That is a wholesale dry goods firm?

A. Yes, sir.

Q. A corporation?

A. Yes, sir.

Q. And how long have you been connected with that concern?

A. About thirteen or fourteen years.

Q. Do you know the amount of its capital stock?

A. Yes, sir.

Q. How much is it?

A. The capital surplus, in round numbers, about four million.

Q. Is it necessary for the corporation of which you are treasurer to borrow money during the year for its mercantile business?

A. Yes, sir.

Q. From what sources do you borrow money?

A. We borrow through our banks, brokers and occasionally through what we call our deposit and house accounts where officers and employes will leave their money on deposit.

Q. And what does that amount to?

A. Well, that would vary from month to month, but I should say on the average that it would run somewhere between one hundred and one hundred and fifty thousand dollars.

Q. Can you give us a statement of the amount of money borrowed by your concern from brokers during the year 1921?

A. Oh, I couldn't answer; I couldn't give you that accurately. I should say it was over two million dollars, through brokers.

Q. And how much borrowed through banks?

A. Well, of course, we don't always use our full line of banks. We will borrow from them as we find we can get a better rate than we can from the broker, but I should say that—it is safe to say that probably we borrow anywhere from six hundred thousand to a million during the course of a year, but not all at one time.

Q. Would those figures apply both to 1921 and 1922?

A. Yes, sir.

Q. From your knowledge of the mercantile and manufacturing business of the state, and the amount of borrowed capital used in those industries, could you give an estimate of how much money is borrowed by Minnesota institutions in this state from brokers, in a year?

A. Well, I don't really know. I should estimate certainly over 100 million dollars.

Q. Have you had the experience of having banks in which you have a line of credit solicit borrowing by you?

A. Yes, sir.

Q. In which you have refused because you placed it with note brokers?

A. Yes, that has happened. We always try to accommodate them, but we can't always do it.

Q. Accommodate them by borrowing their money?

A. Yes.

CROSS-EXAMINATION.

By Mr. Ryan:

Q. Mr. Shepard, you have some familiarity with the banking business?

A. Well, only in my connection with our bank relations through the business.

Q. Are you connected with the First National Bank?

A. No, sir.

Q. You are not an officer?

A. No.

Q. Are you an officer of any of the banks or have you any position with them?

A. I am a director of one of the banks, but not an officer.

Q. A director of what bank?

A. The Merchants National Bank.

Q. And so in that way you endeavor to familiarize yourself to some extent with the banking conditions and banking practices and the theory of banking; isn't that true?

A. Well, I find that it takes most of my time tending to my own business.

Q. I ask you that for this reason, I want to know if you can tell how and why it is that a note broker can loan money to your concern at a lower rate of interest than the bank in which you are interested can loan money to your concern.

A. Well, I presume that is probably explained through certain conditions in the localities where that bank is operating. There may be a bigger demand in some particular section of the country than in some other where money might be a little easier.

Q. I gather, to put it concretely, that the reason for it is that this broker is able to place your loan in some other bank or banks in some other locality which banks are willing to loan money at a lesser rate of interest than the local bank.

A. Well, I presume his practice is to sell the paper as he buys it through us through his own agents in the localities where he can sell it and he sells to the country bank and to individuals, I imagine, and to other institutions.

Q. Well, country banks who are taking paper, then, are willing to loan at a lesser rate of interest than the local bank?

A. Well, that might be in some localities in the east. There might be some country banks there where they have idle funds. Maybe they want to keep it earning money. They might be able to place it, take the paper at a less rate than some bank out here where there might be a little stringency.

Q. Well, when you speak of the country banker, you don't mean the country banker in Minnesota?

A. Oh, no, all over the country.

Q. The money that goes into the hands of these note brokers goes to banks all over the country, does it not?

A. I imagine so. We sell to brokers in New York and there may be a place in San Francisco.

Q. Does it not follow as a true statement of that, that the broker merely reflects the competition of the banks of the country against the local banks?

A. Well, I wouldn't hardly say that. Just repeat that question, please.

Question repeated to witness.

A. Well, of course, we have the banks here—while we consider these local banks, we have other bank accounts in the east. It would apply just the same. We take the banks and the brokers as a whole when we go to borrow money. We ask them for a rate, and the institution that gives us the best rate gets the business.

Q. Yes, but it is also true, isn't it, when you talk of the rate of the broker, that the broker is principally, if not wholly, merely a source of outlet for scattered banks?

A. Well, he has his own clientele and he places the money through them.

Q. Then, getting back to my original question, doesn't it follow, and isn't it true, that the competition of the broker merely reflects the competition of banks constituting his clientele against local banks and against such banks in the East as you do business with, with this additional difference, that those banks, competing through a broker, are handicapped to the extent that they must pay him a commission?

A. Well, yes, there are bankers, and the brokers are in direct competition with one another for money.

Q. That doesn't answer it. Mainly what I am getting at is that the competition represented by the brokers is competition coming through him from the banks.

A. Well, of course, he doesn't always place it through banks.

Q. He does principally, does he not?

A. Well, I can't tell you that because I am not familiar enough with the brokerage business, but I do know that brokers in the East place a great amount. What that percentage is, I haven't the slightest idea.

Q. You do know, however, that in some degree at least the brokers' clientele consists of banks?

A. Oh, yes, that is quite true.

Q. Isn't it also true, a matter of opinion or belief or judgment that principally his clientele is banks?

A. Well, without really knowing I should almost think that he probably would place the majority of his paper through banks. I don't know that.

C. E. McLAREN,

sworn on behalf of defendant, testified:

By Mr. O'Brien:

Q. Mr. McLaren, are you an officer of the corporation known as Farwell, Ozmun, Kirk & Co., of this city?

A. Yes, sir.

Q. Is that a Minnesota corporation?

A. Yes, sir.

Q. Engaged in what business?

A. Wholesale hardware.

Q. And what is the capital stock of the company?

A. Two and a half million.

Q. In the course of the business of that company is it necessary that it borrow money?

A. It is.

Q. And from what sources does it obtain its borrowed money?

A. Through our bank connections and the brokers.

Q. Your bank connections where?

A. St. Paul and Chicago and New York.

Q. Do you have connections with National Banks of this city?

A. Yes, sir.

Q. Could you give us an estimate of the amount of money which that corporation borrows from brokers in the course of a year?

A. Well, it varies from year to year, but at the present time I should say that a million dollars of our borrowings were placed through brokers.

Q. And how was that in 1921 and 1922?

A. Well, it would run, I should say, much the same.

Q. And how does that amount compare with the amount which you obtained from banks?

A. Well, it is somewhat in excess of the bank line.

Q. You don't do all your bank borrowing in St. Paul?

A. No, sir.

Q. How did that borrowing from brokers compare with the borrowing from St. Paul banks?

A. Well, it would be greatly in excess of our borrowings from banks.

Q. Are you familiar with the general course of business as carried on by the various mercantile and manufacturing establishments in Minnesota? ?

A. Fairly so.

Q. From your knowledge of the situation, can you give an estimate of the amount of money that is borrowed by Minnesota institutions of that character from note brokers?

A. I have never made any calculations along those lines. Any statement I might make would be a pure guess, but the sum must run up into very large figures. I think 100 million, which has been stated by other witnesses, is probably—I would think under the actual figure.

Q. Any considerable portion of that purchased by brokers here?

A. No; I would say a very great part of that was purchased by brokers in the East.

Q. And how much would you say was purchased by brokers in Minnesota? Have you any means of knowing?

A. I have no means of knowing, but I do know this, that our borrowings through our brokers in Minnesota this year are greatly in excess of former years. The rate seems to favor this market.

CROSS-EXAMINATION

By Mr. Ryan:

Q. When you were in the market for money, you endeavored to borrow it through your banks simultaneously at St. Paul and Chicago and New York, and at the same time negotiate with the brokers?

A. As a rule, we aim to keep our bank lines open. We have agreed upon bank lines, but we usually keep a large

open margin there to take care of emergencies and to take care of this commercial paper, as they call it, as it matures.

Q. You regard, then, this borrowing through note brokers as something of a different nature than your borrowings from your banks, do you not?

A. Well, it is different, usually, in that the rate is lower.

Q. Is it different in any other respect?

A. Not so far as I can determine.

Q. Assume this situation, that your broker offered you a loan at one figure and your banks were able to take care of the amount you wanted to borrow, offered you the same rate, would you favor the broker?

A. We would if we felt the need of keeping our bank line open, if the rates were even.

Q. Well, there is something more than the rate involved?

A. Well, no, a lower rate from our bank would result in our borrowing from the bank.

Q. Well, an equal rate does not, however?

A. Not always.

Q. To that extent, then, at least I draw the conclusion that because, other things being equal, you borrow from your broker, there must be something other than the rate involved in the transaction.

A. No; there is the question of our needs involved, constantly.

Q. Assume that you need a million dollars, you go to your banks and they will offer it to you at one rate; you go to your note broker and they offer it to you at the same rate, you say that you take it through your note broker?

A. No, I wouldn't say that. We borrow from our banks possibly well up to 50 per cent of our line, sometimes not as much as that, but it is largely a question of rates.

Q. Did you ever borrow, taking the aggregate borrowing through your note brokers and through your banks, more than the aggregate of your bank lines?

A. The combined borrowings would be in excess of our bank lines. I think not, not anything more than our bank line.

Q. In your borrowings through brokers, have you borrowed through local or eastern brokers prior to this year, principally?

A. Well, it depends on the rates. This year the local brokers are able to serve us more satisfactorily than the eastern brokers.

Q. But there is, at all times, is there not, competition between the local broker and the note broker and the eastern note broker?

A. Yes.

Q. And there is competition between the Chicago bank and the New York bank and the St. Paul bank?

A. Yes, sir.

F. P. FELLOWS,

sworn on behalf of defendant, testified:

By Mr. O'Brien:

Q. Mr. Fellows, you are an officer of the Capital Loan & Trust Company, of this city?

A. Capital Trust & Savings Bank.

Q. You hold what position?

A. Vice-president.

Q. And have been connected with that corporation for a long while?

A. About twelve years.

Q. Is that corporation organized under the laws of Minnesota?

A. It is.

Q. It receives deposits?

A. Yes.

Q. It does a banking business?

A. A savings bank and trust company business.

Q. And is affiliated with the Capital National Bank of this city?

A. Well, it is not directly affiliated, no. It is closely connected with the organization.

Q. Are the stockholders identical?

A. No.

Q. Can you let us know the amount of mortgages outstanding on the 1st of May, 1921, which had been on Minnesota real estate negotiated through your bank and sold to individual investors?

A. I can't give you the figures of that date.

Q. What date can you give us that figure for?

A. Well, I can give you information relative to the loans which have been sold in the last four years.

Q. The total of loans sold in the last four years on Minnesota real estate?

A. The total of loans sold in the last four years on Minnesota real estate, both farm and city.

Q. Have you got it for each year?

A. Each year and in the aggregate.

Q. Will you give us that?

A. In 1919 the total farm sales in Minnesota were \$2,421,000; in 1920, \$1,896,000; in 1921, \$1,743,000, and in 1922, \$1,656,000, making a total of \$7,718,000.

Q. And what were the maturities of those mortgages?

A. They ran practically all for five years.

Q. Now, what about city mortgages?

A. In city mortgages, we made, in 1919, \$2,173,000.

Q. I would rather have the loans that we disposed of.

A. Such loans sold \$1,115,000 in 1919; in 1920, \$1,051,-000; in 1921, \$1,128,000, and in 1922, \$1,986,000, or a total of \$5,282,000.

Q. And what were the average maturities of those mortgages?

A. Well, they will average pretty close to five years.

Q. And to what class of investors were those mortgages principally sold?

A. Very largely to individual investors.

Q. Of what residence?

A. Well, the greater proportion; I would say that fully 95 per cent would be sold to Minnesota residents, either individuals or corporations.

Q. Have you a statement of your bond sales?

A. No.

Q. During that period?

A. I haven't for our sales of bonds. Our sales of bonds last year through our banking department were about three million, practically all to Minnesota residents.

Q. During what period was that?

A. 1922.

Q. What about 1921?

A. Well, I haven't the figures on that.

Q. Has your company trust estates?

A. We have.

Q. And estates of deceased persons and persons under guardianship?

A. Yes.

Q. Are you able to state the total amount of those estates?

A. No, I haven't got the total. I can't give you that total.

Q. The amounts are substantial in all those estates, are they not?

A. In some, yes.

Q. And principally invested in personal property?

A. They are principally invested in farm and city loans and in various types of bonds.

CROSS-EXAMINATION

By Mr. Ryan:

Q. Now, Mr. Fellows, how do you procure your farm loans?

A. They are procured through banking connections out in the country.

Q. National Banks as well as State Banks?

A. Yes.

Q. One desiring a loan approaches the local bank, that bank hasn't funds which it desires to loan upon the credit offered, transmits the application to your Trust Company?

A. Yes.

Q. And that is the way all your outside loans are made?

A. Yes. As a matter of fact, the country bank handles the larger part of its farm loan business through such a connection. Country banks carry very few farm loans.

Q. And the city loans are, you say, all over a year?

A. The city loans average five years. The average would be pretty close to five years.

Q. Would you say that there was any appreciable portion of the loans made within the city on mortgages for a period of a year or less?

A. Very, very few.

Q. Do you sell any of your bonds or mortgages through the banks in the smaller communities?

A. Occasionally, but not very often in Minnesota; in southern Minnesota you would some, but when you get into Dakota and Montana, none at all.

Q. These transactions, your mortgage loans and your bond transactions, are transactions of the Trust Company and not of the Savings Bank, are they not?

A. Well, we have a savings department of the Trust Company. The bond business is done by the Trust Company and not by the National Bank.

in a community necessarily competes with all other money that is also loaned at interest?

A. It does, in a broad way, yes.

M. J. CASHEL,

sworn on behalf of defendant, testified:

By Mr. O'Brien:

Q. Mr. Cashel, are you in charge of the mortgage department of the Northwestern Trust Company of this city?

A. I am not in charge of it, no, sir. I am one of the—kind of an assistant.

Q. Well, you are connected with that company?

A. Yes.

Q. Can you give us the amount of mortgages upon real estate in Minnesota held by that company on May 1, 1921?

A. About $2,900,000.

Q. And how about 1922?

A. About $3,100,000.

Q. Do you know the aggregate amount of mortgages on Minnesota real estate sold by the Northwestern Trust Company during the year 1921?

A. About $900,000.

Q. In 1922?

A. About $325,000.

Q. To whom were those mortgages sold, what classes?

A. Well, they were sold to individuals in Minnesota.

No cross-examination.

A. T. STOLPESTAD,

sworn on behalf of defendant, testified:

By Mr. O'Brien:

Q. What position do you occupy with the Northwestern Trust Company of this city?

A. Assistant secretary.

Q. What is the capital stock of the company?

A. A million dollars.

Q. And what was its surplus on the 1st of May, 1921?

A. $100,000.

Q. And what was its undivided profit surplus?

A. $153,217,62.

Q. And what were its real estate holdings on that date?

A. $96,446.10.

Q. What were the gross earnings of that company during the year 1921, exclusive of interest on United States and municipal bonds and the interest paid by the company upon borrowed money?

A. $316,644.43.

Q. What amount did the company receive as interest upon United States and municipal bonds?

A. During 1921?

Q. 1921.

A. $20,167.47.

Q. And how much did it pay upon borrowed money?

A. $12,335.84.

Q. This company pays a gross earnings tax, does it not?

A. Yes, sir.

Q. You do no banking business?

A. No banking business whatever.

Q. And your income tax for that year was based upon the figures that you have given, $316,644.43?

A. Yes, sir.

Q. And upon that you paid five per cent, amounting to how much?

A. $15,832.22.

Q. Now, the capital stock, surplus and undivided profits, less your holdings in real estate, amounted to $1,156,771.52. Have you got that figure?

A. I could compute that very quickly, $1,156,771.52.

The Court: That represented the capital and the—

Witness: The capital, surplus and undivided profits, less the real estate.

Q. Will you give us 40 per cent of that amount?

A. $462,708.61.

Q. And the tax of six per cent on that forty per cent would amount to how much?

A. $27,762.48.

Q. And how much is that amount in excess of all over what you actually paid as taxes?

A. Approximately $12,000; about $11,900.

No cross-examination.

HENRY C. SOUCHERAY,

sworn on behalf of defendant, testified:

By Mr. O'Brien:

Q. Mr. Soucheray, you reside in the city of St. Paul?

A. I do.

Q. And what is your business?

A. Abstractor of titles.

Q. You are a member of what?

A. The St. Paul Abstract Co.

Q. Is that a corporation?

A. A corporation.

Q. And what office do you hold with the corporation?

A. That of treasurer.

Q. And do you actively work at the matter of preparing abstracts of title and examining the records in the counties?

A. I do.

Q. Register of Deeds office?

A. Yes.

Q. How long have you been engaged in that occupation?

A. About thirty-one years.

Q. Have you made an examination for the purpose of ascertaining the amount of mortgages recorded during the year 1921 in Ramsey County upon real estate in Ramsey County owned by residents of Ramsey County, Minnesota, which at this date remain unsatisfied?

A. I have made such an examination.

Q. Can you state the amount of such mortgages?

A. They amount to $9,889,047.

Q. That includes all mortgages?

A. The mortgages recorded, as I take it, during the year 1921, owned by residents of Ramsey County, is $6,351,-105.

Q. And how much was the aggregate of mortgages owned by corporations on real estate in Ramsey County?

The Court: At first, I take it, it was individuals.

Witness: Individuals, yes.

Q. I want to know the mortgages on Ramsey County real estate for the year 1921 still unsatisfied, owned by Minnesota corporations, excepting savings banks and trust companies.

A. There were $3,537,942.

Q. Will you state the aggregate amount of mortgages recorded from January 1st to April 30th, 1922, unsatisfied on that date and owned by residents of Ramsey County on April 30, 1922?

A. $2,204,351.

Q. Will you please state the aggregate amount of mortgages recorded from January 1st to April 30, 1922, still unsatisfied on that date, owned by Minnesota corporations, except savings banks and trust companies?

A. $996,113.

Q. Do you know the total of those four items that you have given?

A. Yes. The total is $13,089,491.

Q. Have you made an examination for the purpose of determining what portion of those mortgages were purchase money mortgages?

A. I have made such an examination.

Q. And what portion of that total were purchase money mortgages, in your judgment?

A. Well, the actual figures are $1,019,569.

Q. When, you say actual figures, what do you mean?

A. Well, that is the total of all mortgages which state on their face that they are given to secure the unpaid portion of the purchase money.

Q. Do those amounts that you have given include any sales contracts?

A. They do not.

Q. Is your familiarity with the records of the office of the register of deeds taken in connection with the abstract records which you have accumulated in your office, and your acquaintanceship with the individuals of St. Paul such that you feel that your statements here are correct?

A. I feel that the statement is correct.

CROSS-EXAMINATION.

By Mr. Ryan:

Q. These mortgages are almost wholly mortgages on St. Paul city real estate, are they not?

A. Yes, although in this statement is included the whole of Ramsey County.

Q. Yes, but the mortgages upon lands outside of the city limits and within Ramsey county are relatively insignificant, are they not?

A. This statement, a small part of it.

Q. Can you roughly estimate the percentage?

A. This is an opinion. It would be about twenty per cent.

Q. Twenty per cent of those mortgages outside the city?

A. Outside the city. It includes White Bear, North St. Paul and those other outskirts.

Q. That would be notwithstanding the fact that, you say, about 97 per cent of the population was within the city?

A. Well, of course, the values of property outside are higher and naturally the mortgages are correspondingly higher, too, when they have it.

Q. You don't mean that the values of land outside of the city limits are higher than the values within the city?

A. What I meant to say is that the population would not be a fair basis to determine how much the mortgages were.

Q. Wouldn't it also be true that about 97 per cent of the real estate values of the county lie within the city limits?

A. That I didn't know. Isn't the basis of valuation outside smaller?

Q. Well, your expression of opinion that 20 per cent of the mortgages on land outside of the city is quite an estimate, isn't it?

A. Absolutely.

Q. You wouldn't say that it might not be limited to one per cent, would you?

A. There are some very heavy mortgages that raised the amount. There are a great many large farms that are heavily mortgaged. I can remember of some great mortgages up to about two and three hundred thousand dollars at one time.

Q. Those are unusual, though?

A. They are unusual, yes.

Q. Did you observe any of those mortgages that were for a shorter time than one year?

A. Well, they ran all the way from one, two, three and five years.

Q. A one-year mortgage would be a very, very rare thing, would it not?

A. Not so rare, no.

Q. These mortgages that you speak of are mortgages only running to individuals, or do you include banks?

A. We are talking about mortgages running to individuals resident of Ramsey county and to corporations, excepting only savings banks and trust companies.

Q. When you say that you occasionally see some mortgages whose maturity it not greater than a year, have you observed that those mortgages usually ran to banks?

A. They are more likely to run to individuals.

Q. Did you observe any that ran to banks?

A. Oh, yes.

Q. Can you estimate about what amount of mortgages in Ramsey county, say during the year 1921, ran to banks?

A. I could not.

Q. Haven't you any idea at all?

A. Not at all. That would be guesswork. I couldn't tell.

JAMES D. ARMSTRONG,

recalled on behalf of defendant, testified:

By Mr. O'Brien:

Q. Mr. Armstrong, I understand you desire to correct your testimony in some respect.

A. I think I stated this morning, Mr. O'Brien, that interest rates were higher in 1922 than they were in 1921. That is not the fact. The interest rates were higher in 1921 than they were in 1922, and to that extent I would like to correct my testimony.

HENRY B. BACON,

sworn on behalf of defendant, testified:

By Mr. O'Brien:

Q. Mr. Bacon, where do you reside?

A. St. Paul.

Q. And what is your business?

A. Chief clerk of the tax commission of Minnesota.

Q. How long have you occupied that position?

A. Fourteen years.

Q. What was the amount of money and credits returned for taxation to the State of Minnesota for the year 1921?

A. The amount returned was $425,745,839.

Q. And how much of that was returned in the County of Ramsey, Minnesota?

A. In the County of Ramsey, for the year 1921, was $83,965,268.

Q. That was value as of the 1st of May, 1921?

A. Yes, sir.

Q. How much did those classes of property amount to as returned for the year 1922?

A. $83,796,840.

Q. That is Ramsey County?

A. That is Ramsey county.

Q. And how much for the entire State of Minnesota?

A. $400,688,948.

Q. The taxpayer is required to list that class of property upon a blank furnished by the tax authorities, is he not?

A. Yes, sir.

Q. (Showing witness Deft's. Ex. G). Will you state whether that form is the form in which the taxpayer is required to make the return?

A. That is the form specified by the tax commission.

Q. It contains fifteen items?

A. It does.

Q. Has the tax commission of Minnesota subdivided the total moneys and credits between the fifteen items shown upon the return in the form of Ex. G?

A. They tried to do it for 1918 and got practically complete returns except for Pope county, some few districts.

Q. Do you consider that the segregation of items made by your department in 1918 would be practically correct as to percentages in the years 1921 and 1922?

A. I think it would be, practically.

Q. Would you please produce the segregation which you made for the year 1918?

A. I have it here.

Q. (Deft's. Ex. H shown witness). State whether or not the total shown upon Ex. H was the aggregate amount of money and credits returned for the year 1918.

A. Now, for the year 1918, the aggregate amount of money and credits for the entire state was $330,300,219. As I stated before, some districts failed to make a report to the county auditor, and Pope county made no return. Therefore, the amount of the segregation is $325,680,420, a difference of not quite five million dollars.

Ex. H offered in evidence.

Q. Did you make a similar segregation of the items for Ramsey county?

A. I did for Ramsey county for 1918.

Q. Will you produce that? (Witness produces paper.)

Q. (Ex. I shown witness). Is that the segregation prepared for 1918?

A. That is correct.

Q. Of Ramsey county?

A. Of Ramsey county, yes.

Q. Would you consider that the percentages shown for that year would be approximately correct for subsequent years?

A. It would be approximately. Some items vary a little bit.

Deft's. Ex. I introduced in evidence.

Q. This class of property referred to as money and credits is the property which, under the laws of Minnesota, are taxed at three mills?

A. Yes, sir.

Q. Now, I call your attention to pages 380 and 381 of the report of the Tax Commission for 1921 and 1922, and ask you, by referring to that report, to state the amount of registry tax paid in Minnesota upon mortgages upon real estate in Minnesota during the eleven months ending June 30, 1921.

A. $461,406.58.

Q. The registry tax upon mortgages for five years or less is one and one-half mills, is it not?

A. That is correct, yes.

Q. And for those months which run for a longer period of time, two and one-half mills?

A. 25 cents on $100, yes.

Q. And after the registry tax is paid they are tax exempt, is that correct?

A. That is right.

Q. Now, will you please take the amount paid in registry tax for the eleven months ending June 30, 1921, which you state was $461,406.58, and give me the aggregate of those mortgages, assuming that the registry tax was one and one-half mills?

A. In the neighborhood of $307,600,000.

Q. And at the rate of two and one-half mills, what would that amount to?

A. It would amount to about $184,560,000.

Q. What was the amount collected in registry tax for the fiscal year ending June 30, 1922?

A. $529,923.47.

Q. Those amounts that you have given as being collected were the registry taxes collected upon mortgages recorded in Minnesota during those years?

A. Yes, that is correct.

Q. Will you please turn to pages 96 and 97 of the report of the Tax Commission for those years and inform us what percentage of the entire tax collected in the State of Minnesota was collected upon money and credits?

A. That is another proposition. I can tell you in a few minutes. The total tax for 1921, exclusive of special assessments, was $108,087,336.31.

Q. When you speak of the entire taxes, you mean gross earnings taxes from all iron mining taxes, every form of taxation?

A. That simply meant the ad valorem tax, not gross earnings or any other form of taxes. The entire tax which was levied in this state for 1921.

Q. Is that not given on pages 96 and 97?

A. The entire tax of all forms for the year 1921 was $124,315,917.95. Now, the mortgage registry tax was less than one per cent of the total.

Q. I said the money and credits.

A. The money and credits tax was less than one per cent of the total.

Q. Approximately one per cent, was it?

A. Yes, approximately one per cent of the total. It would be something over $1,200,000.

A. It would amount to about $184,560,000.

Q. Will you please give us, by turning to pages 96 and 97, what proportion of the assessed value of money and credits was of total property assessed in the state?

A. About 17 per cent.

Q. And that property, amounting to 17 per cent of the total assessed property paid approximately one per cent of the tax?

A. That is correct.

Q. Now, kindly furnish me with a list of the trust companies paying gross earnings tax in Minnesota.

A. Yes. (producing paper).

Q. (Ex. J shown witness). Is that a correct list of the companies?

A. So far as shown on our record at this time, so far as shown by that list.

Q. That statement was not prepared by you, but look at it and see if it is correct.

A. I believe that to be correct.

Q. That, you think, is a correct list of the companies?

A. I believe it is.

Ex. J introduced in evidence; also tabulation of the evidence given by Mr. Stolpestad with reference to the payment of the gross earnings tax by the Northwestern Trust Company.

Court here adjourned until Wednesday morning, October 24th.

Q. I understand you desire to make a correction in your testimony, Mr. Bacon.

A. Yes; a question you asked yesterday, if I understand it, was what per cent of the total sum here noted on page 97 of the Tax Commission report, $2,383,000 was represented by the assessment of money and credits. I gave the amount as 17 per cent, which is entirely correct as far as it goes, but on page 73 of the Tax Commission report we find a different tabulation. Money and credits assessed at 100 per cent of true and full value, and all of the taxable property of the state, the true and full value is not less than seven billions of dollars. The proportion of that which money and credits bears would be not less than—would be about six per cent rather than seventeen as to the total true and full value.

Q. Now, you would derive the percentage of 17 per cent in consideration of the tabulations on what page of your report?

A. Pages 96 and 97.

Q. Are all the items carried there at their full and true value? These items referred to here on pages 96 and 97 are the taxable values or the assessable values of the real and personal property?

A. It does not include the property included—when you asked me how much was the total of all property—tax on all property in the state, including gross earnings on royalties and other kinds of property, which, according to the estimate of the Tax Commission, given on page 73, is not less than $850,000,000 true and full value.

Q. Well, on what basis is each item of personal property carried on pages 96 and 97? Is it at its true value or its assessable value?

A. Its assessable value.

Q. In case of money and credits, the true value, and the assessable value are identical?

A. They are identical.

Q. And so on pages 96 and 97, money and credits appear at both its true and its assessable value?

A. Yes, sir.

Q. The other items appear at their assessed value?

A. Yes.

Q. Which is forty per cent of the true value?

A. Partly forty per cent and partly 33 1/3 per cent, partly 25 per cent.

Q. But in all cases they appear at the assessed value?

A. That is correct.

Q. The result is that on the basis of assessment, money and credits constitutes seventeen per cent of the assessed value?

A. Yes.

Q. And pay the tax of one per cent of the total taxes. Now, you claim that you desire to point out that regardless of the fact that money and credits are carried at 100 per cent, in determining that percentage you should take all

of the other property at 100 per cent as shown on page 73; is that right?

A. That is correct.

Mr. O'Brien: Could we have an understanding that either party may refer to any portion of this report?

Mr. Ryan: I understand the report is in evidence. I agree with you on that, that either party may refer to it; the Court may take judicial notice of it.

E. A. YOUNG,

sworn on behalf of defendant, testified:

By Mr. O'Brien:

Q. Mr Young, you are the County Assessor of Ramsey county?

A. I am.

Q. Did you prepare a statement segregating the items of money and credits as returned to your office for the years 1921 and 1922?

A. I did.

Q. (Ex. G shown witness). Will you please state whether that is the first segregation you made?

A. That is the correct figures.

Q. I think that document came from your office, Mr. Young.

Mr. Ryan: It is based upon this sheet here, which comes from his office.

Witness: This is a copy.

Q. That is a correct segregation of the items of the total?

A. That is all the individuals who returned personal property in excess of $4,000. It is 91 per cent of the total personal property of money and credits returned.

Q. And you have segregated the items going to make

up money and credits, and they are correctly stated on this exhibit?

A. They are.

Q. Since preparing Ex. G, you have also separated those items between the returns of individuals and corporations?

A. Yes, that was done.

Q. I show you Exs. K and L, and ask you if that is the segregation which you made between individuals and corporations, respectively, for the years 1921 and 1922?

A. That is correct.

Q. That is right?

A. Correct.

Exs. K and L introduced in evidence, also Ex. G.

Q. What are cream checks?

A. Oh, that is checks of the creamery people that they had standing out.

Q. Very little of that in Ramsey county?

A. Very little. This schedule was made up by the State Tax Commission.

Q. The 91 per cent from which these tabulations have been made, represent how many taxpayers, how many returns?

A. About 1,900.

Q. I understand that the total number of returns which you included in making up this segregation of taxpayers are 1,900?

A. About 1,900, yes.

Q. And the balance was about how many? Can you estimate?

A. About 3,000 more, on money and credits, were very small; that is, under $4,000.

Q. So the total would be in the neighborhood of 5,000?

A. About 6,000, total.

CROSS-EXAMINATION

By Mr. Ryan:

Q. Mr. Young, how long have you been County Assessor?

A. Four and one-half years.

Q. And prior to that time what was your occupation?

A. Mercantile business.

Q. And how long were you in the mercantile business?

A. Fifty-five years.

Q. And in what capacity were you in the mercantile business?

A. I was the office manager of the business partnership of Finch, Young & McConville.

Q. That was one of the very large—

A. Wholesale drygoods.

Q. —jobbing houses in this city?

A. Yes.

Q. And as County Assessor you keep in close touch with the reports made by taxpayers upon which their assessment is based, do you not?

A. I do. I take all the large ones myself personally.

Q. During the making of the assessment, in a great measure you make inquiries concerning the details of their reports, examine into them and familiarize yourself with the contents of them?

A. I do.

Q. And to a very large extent you are familiar with all the assessments, particularly the personal property assessments made under your direction?

A. Yes.

Q. And as I understand the system of your office, it is this; that the principal taxpayers make a return, do they?

A. Oh, yes, the large taxpayers would hardly, with an exception, make returns. And those large taxpayers' re-

turns are made to me individually; I do not permit any of my clerks to accept them.

Q. And quite a large percentage of all the assessments made are made upon returns made by taxpayers, are they not?

A. Oh, yes.

Q. Where there are no returns, your field men go to every house and every place of business and make inquiries and make observations and they report their findings to the office?

A. We attempt at the present time to get a return from every taxpayer that our field men visit, but they do not visit all, and as far as possible we get the returns direct from those field men. When the field man's work is done, any cards that are left out, that haven't been reported, they are arbitrarily assessed or every effort is made to find out if they have moved. If they have moved away, the cards are rejected, and if they are still in the city, an attempt is made to make them come in and make their report. If they do not do it, we make an arbitrary assessment.

Q. In the course of the assessment, a card is made out showing the details of the assessment against every individual and corporation subsequently going on the tax-roll?

A. The field man takes a schedule, and that schedule is copied on to our office cards.

Q. And those cards are filed and they are being constantly gone over by you and by your deputies, so that you are familiar with the details of those assessments?

A. Oh, yes.

Q. And as a matter of experience in handling those cards, you can tell a great deal about—you can interpret the cards in a very large measure so as to know what the detail of the assessment represents in probably a more real and practical way than the listing would indicate, can you not?

A. I can.

Q. Take, for instance, the item 5, of money and credits, bonds except U. S. bonds, is it possible for you by going over the lists of persons who are assessed on that item, to determine with reasonable certainty the nature of their investments in those bonds?

A. It is. In many cases, the items of the different bonds are brought into my office and shown to me, and the question comes up as to which bonds are taxable and which are not. That is gone over by me personally with a great many people.

Q. You are pretty well acquainted throughout the city, are you not, you know the city very well and its people?

A. Quite well, yes.

Q. And you have been all your life in contact with them. Isn't it true, Mr. Young, that you can take that list of money and credits and go through it and say to us one way or the other, with reasonable certainty, what sort of investments those bonds represent, the people who have put their money into those bonds and the like, what sort of funds in the hands of those people they represent?

A. Well, that would only be possible, Mr. Ryan, with the larger taxpayers, as to the class of the bonds.

Q. As to the larger taxpayers. Well, is it true, or is it not true, can you determine from your list whether it is true or not true that the bonds found upon this money and credit list in the hands of individuals will be investments by those individuals of their surplus funds?

A. I think in most all cases they do.

Q. Can you say, from your list, whether in any instances those bonds represent bonds bought by individuals for speculative purposes?

A. I should say not. I should say they were bought for investment purposes.

Q. And that you can tell from an inspection of your tax-list, can you not?

A. Yes, I can. Practically every one of the small returns are investment security, practically every one of them.

Q. What do you know about the larger assessments upon that item, bonds in the hands of individuals? Are you able to say from your inspection of your lists whether any of those bonds are speculative holdings?

A. I should say a very, very small amount of them are speculative holdings. The large majority of them are investment securities, bought for investment purposes.

Q. And those holdings by individuals, you consider them holdings in connection with the business of the individual, or whether or not they are holdings of moneys, being the surplus over and above the business requirements of the persons holding such funds?

A. I think a large number of them are individual holdings. That item is not very large on the part of corporations and partnerships; it is more largely of individuals.

Q. You know very largely, from an inspection of your lists, what the business of the individual reporting those bonds is, do you not?

A. I would.

Q. Are you able to form an opinion as to whether or not those individuals have acquired or are holding those bonds in connection with their business or whether or not they represent investment of funds not employed in the business in which they are engaged?

A. Well, I should say that in almost all cases in that item No. 5 that those bonds were purchased for investment purposes.

Q. That is, outside of the business which the individual reporting is engaged in?

A. Yes.

Q. Now, take item 4, promissory notes, bills of exchange, due bills, cream checks and similar evidences of indebtedness, are you able to say from your familiarity wtih assessments, from your inspection of the lists, what kind of promissory notes are included there, describing the promissory notes as to the manner in which they come into the possession of the individual or corporation or their use by the individual or the corporation?

A. The promissory notes are very largely made up of corporations and business concerns, and in almost all cases those promissory notes are accepted by the concern for past-due indebtedness.

Q. Do you know to what extent that would be true of the individual holdings of promissory notes?

A. No, I couldn't answer that question.

Q. You don't know?

A. I don't know.

Q. What do you know, if anything, about bills of exchange and due bills?

A. It is a very small portion of the whole.

Q. And similar evidences of indebtedness?

A. That would be a very small proportion. The fact is that almost the entire amount for that item "promissory notes" are promissory notes.

Q. Do you know anything of that same general nature concerning item 6, "Real estate mortgages upon lands situate outside of this state?"

A. No. That is comparatively a small item as well, and that would simply mean the individual—in most cases that would be an individual holding on the outside. What item is that?

Q. Six, outside real estate mortgages.

A. That would be a small matter, and in most cases would be an individual who held one of those securities outside the state.

Q. Nothing in your records, or upon the face of the list which would enable you to state, with any reasonable certainty, as to how usually such individuals come in possession of those mortgages?

A. There is no possibility of knowing that. The return is simply made by the owner that that property is secured outside of the state and taxable here.

Q. The next item, "Chattel mortgages upon personal property in the state or elsewhere, and the amount secured thereby." Apparently mostly held by corporations. Can you throw any light on that item?

A. Yes. I know a good deal about that. Those chattel mortgages are very largely furniture mortgages, taken for furniture delivered by the furniture companies and upon which they have taken a mortgage and mortgages on automobiles. That item is very, very largely—those two items.

Q. Is that true of the chattel mortgages in item 8 listed by individuals as well as by corporations?

A. Those are almost entirely by corporations, corporations or firms.

Q. One of these segregations that you have for 1922, for instance, those in the hands of corporations, amount to $1,027,000 and in the hands of individuals $347,000.

A. What item is that?

Q. I probably misunderstood you. Under the head "individuals" you include individuals and firms, item 8. In the hands of corporations there were $1,027,168; under the head "Individuals", $347,667. That item under "Individuals" includes firms, does it?

A. Partnerships. There were very few of those items, chattel mortgages that were taken by individuals personally, although if a man is running a business in his own name, that would have appeared under the head of "Individuals" here. For instance, Joseph Levi, in the furniture business.

Q. Substantially all of those chattel mortgages are of the type you have described?

A. Practically all of them.

Q. "Book accounts," I suppose that is explanatory. Can you add anything by way of description to the nature of those book accounts as you have observed that from your experience in the office in your inspection of the returns? Can you throw any light upon that item, other than it appears to be?

A. That is almost entirely the large firms, but many of the smaller firms have book accounts as well, but it is very largely made up of the large concerns, both corporations and partnerships, and a very small amount of that is individuals. The great bulk of it is the leading jobbers and the commission men and firms. The item of "Individuals" is very small.

Q. That represents—appears to—sums owing for goods sold or services performed, and matters of that kind, charged upon books and remaining unpaid as of May 1st?

A. Almost entirely for merchandise sold and remaining unpaid on May 1st.

Q. Can you throw any additional light upon item 15, "Shares of stock in corporations the property of which is not assessed or taxed in this state?"

A. That is pretty difficult.

Q. To what extent, if any, so far as you know, does this list of money and credits that you have given, include money and credits in the hands of such concerns as investment houses?

A. Oh, very small, only a very few investment houses who make returns here. Many of them are reported in Minneapolis and make no return in St. Paul at all. In fact, I think there were only two who make any return in St. Paul, outside of perhaps office fixtures or something of that

kind. I think there is no money and credits return made by any concern but two.

Q. Can you state what the aggregate money and credits reported for taxation by those investment houses was for the year 1921?

A. Yes, I can give you those figures. One of them $11,860 in 1921, and in 1922 $14,790.

Mr. O'Brien: Are you referring to the tax or the amount—

Witness: The gross amount of return of the money and credits, including cash and bonds on hand, etc. The other one in 1921, $61,640, and in 1922, 94,100. I think that those are the only two bond houses who make any return in our office except for office furniture and fixtures, etc., personal property.

RE-DIRECT EXAMINATION.

By Mr. O'Brien:

Q. This last statement of yours referred to corporations, did it not and investment companies?

A. Yes.

Q. You were not referring to individuals?

A. No.

Q. And, of course, it didn't include any of the banks or trust companies or persons who were taxed upon a different basis than upon a direct tax upon their money and credits?

A. Not at all.

Q. Now, you have been Assessor for how many years?

A. Four and a half years.

Q. The law of taxing money and credits separately, classifying that property and taxing it separately, was passed in about 1910, was it not?

A. I think it didn't go into effect until 1912 or 1914. I was not the Assessor then.

Q. It is a comparatively recent law?

A. Yes.

Q. And was enacted upon the theory that if a low tax was placed upon money and credits the holders of that class of property would be more willing to list it for taxation?

A. I presume so.

Q. It is a class of property that is very difficult for any tax authority to find, is it not?

A. Very.

Q. So that after all of these efforts which you have made and the personal attention that you have given to it, you are not at all satisfied that you have been able to assess the actual money capital in this city and county invested in that form of property, are you?

A. I am not satisfied with it, Mr. O'Brien; no, sir.

Q. You are quite convinced that there is an immense amount of that that in one way or another has escaped taxation?

A. Yes, because we must depend very largely upon the honesty of the taxpayer.

Q. And in the case of the smaller property holder, the taxpayer who owns one bond or two bonds has never been taxed and whose name has never appeared upon the tax-roll, you are absolutely at sea with regard to the amount of that, are you not?

A. We do the best we can. We sent to every taxpayer a schedule with money and credits and ask him to make return on it. A great many returns are made, which is very small,—100, 200 or 500.

Q. An individual of small means, who is not a householder, his name is very likely to be omitted from the tax-roll, is it not?

A. I am afraid it is.

Q. Of course, you know that there is a large amount of money invested in securities of this sort in this community?

A. Yes.

Q. And you know that if it doesn't appear upon the tax-roll it must be there because it is held by corporations that pay a tax upon a different basis or because the taxpayer fails to return it; is not that true?

A. That is a difficult question to answer, Mr. O'Brien, because a great many people come into my office with different securities, and read them over and ask me if they are taxable. For instance, stock in any railroad that pays a gross earnings tax in Minnesota is not taxable. Bonds of the Great Northern Railway Company, which is recorded in the State of Minnesota, are not taxable. Municipal bonds in Minnesota are not taxable. Stock held by individuals in corporations who pay a tax is not taxable.

Q. Industrial bonds?

A. Industrial bonds are not taxable provided they pay a tax.

Q. Provided they are secured by a mortgage upon real estate?

A. Yes. Any mortgage paying a registration tax in the State of Minnesota is not taxable, and it is very difficult, under those conditions, to know what the holdings of any individual or concern is unless they make a detailed report.

Q. Still you do know that there is a large amount of money invested in securities that are taxable and in stock of corporations dealing in taxable securities which is not reflected upon your tax return?

A. I am afraid there is.

Q. How many cards are there in your office which you examine in your office with reference to personal property?

A. Personal property or real estate?

Q. Personal property?

A. About 47,000.

Q. That includes the 9,000 money and credits?

A. Yes, both items are on one card.

Q. And this analysis that you have made of the holdings of money and credits applies exclusively to Ramsey county?

A. That applies exclusively to the city of St. Paul. Ramsey county is not in that.

Q. It applies exclusively to the city of St. Paul?

A. Yes.

Q. I think you said that some of the larger investment houses were in Minneapolis?

A. Yes.

Q. And, of course, there are investment houses in Winona, Rochester and Crookston and Stillwater and Duluth and all over the state, are there not?

A. Well, I do not know this. All I know is the Minneapolis.

Q. You know nothing about them. Now, as I understand you to say, your best judgment is that the larger proportion of the item No. 5 is held by individuals?

A. Yes, that is correct. That is my opinion.

Q. And you come to that conclusion from your knowledge of the individuals making the returns?

A. I do.

Q. And therefore that constitutes moneyed capital in the hands of an individual citizen of Minnesota?

A. It does.

Q. Invested in securities, in taxable securities under the laws of this state?

A. That is correct.

Q. The other proportion, whatever that is, of that item, in your judgment, is in the hands of investment companies?

A. No, it is not in the hands of investment companies, it is in the hands of concerns and corporations, and so on, who own the securities.

Q. Isn't it in the hands of the corporation conducting an investment business?

A. No.

Q. Can you give any instance of any corporation holding any of that item except an investment company?

A. I can by going over the record here, very well, if you want me to do that. I can pick them out very easily for you.

Q. Have you gone over the record with that in view?

A. No, not with that in view I haven't. I didn't know that that would be necessary or I would have gone over it.

Q. So that not having examined it with reference to that, you wouldn't know?

A. Well, except as I would know from the returns that were made to me in my office.

Q. Now, is your testimony the same with reference to your judgment as to item No. 6?

A. The same. Now, when "individual" is named, individual may mean a concern doing business in an individual name, and in the recapitulation there that would appear as an individual, but it may possibly be a concern.

Q. Oh, yes, of course, I understand that. Is it not true that there are companies in this city organized to accept chattel mortgages upon automobiles?

A. It is.

Q. And that a large number of automobiles are sold in this manner; the purchaser pays as much upon the automobile in cash as he can afford, then this company accepts a chattel mortgage for the balance and the entire cash goes to the dealer in the automobile, while the chattel mortgage company holds the mortgage as security for its advancement?

A. It has been a very difficult thing, Mr. O'Brien, for me to get the chattel mortgage question on the part of automobile dealers. They take the security and may be paying what he can on the automobile. These securities are taken, and in many cases it is claimed that those securities are sold outright to a bank. I have no means of investigating that to find out exactly what the method is. And we have

had a great deal of trouble in our office regarding that one item on automobiles. Of course there is no trouble regarding other classes of chattel mortgages.

Q. You know that there are chattel mortgages upon automobiles representing millions of dollars, do you not?

A. I presume so. I don't know the figure.

Q. In this county?

A. No, I do not know that.

Q. Representing a very large amount?

A. I know it is a very large amount.

Q. And they are not taken into consideration in this analysis that you have made here on the chattel mortgages given by furniture companies?

A. No. There are some of the automobile chattels that are taken in there but not many of them. They claim that those are all sold to the banks.

Q. Are there not, in this county and city, companies doing exclusively a chattel mortgage business, loaning money upon chattel mortgages?

A. Not that I know of, not exclusively.

Q. You know that there are what we used to call the ten per cent a month sharks?

A. Yes, I do.

Q. They are still operating to some extent?

A. To some extent.

Q. And you know that there is a company organized in this city for the purpose of lending to people of small means money upon chattel mortgage security at a reasonable rate, do you not?

A. I do.

Q. Your former partner, I think, was a member of that—

A. Yes.

Q. Is that company report in here?

A. Yes.

Q. That money is money directly advanced?

A. That company is in here and we tried to assess all the other companies, Mr. O'Brien, but I understand that they don't pay their taxes. That company does, but the other companies do not.

Q. I am not asking for the other companies, but there is such money as that, and there is this very excellent company that you merchants organized which is doing business still in the state?

A. They pay their taxes and make return.

Q. Take chattel mortgages and pay its taxes?

A. Yes, sir.

Q. So that is included in this property?

A. That is included in this.

Q. Now, assuming that the returns reflected business transactions, you know that there is an immense amount of money loaned from individuals to individuals throughout the city on reasonable interest from relatives and from friend to friend that does not appear in the bank statement and things of that sort, don't you?

A. No, I do not know personally. I presume it is so, but I do not know it personally.

Q. You don't know that that is a common thing?

A. I know it is common talk but—

Q. Are there any cattle mortgage companies in Ramsey county, companies loaning money upon security or chattel mortgages upon cattle?

A. Not that I know of.

RE-CROSS-EXAMINATION

By Mr. Ryan:

Q. Mr. Young, I asked you to give the aggregate money and credits assessment against investment companies and you gave that to me. Are there any individuals who have

reported money and credits for assessment whom you would add to that class?

A. No, I think not.

Q. *So that when you* gave, in answer to my question, the aggregate returns of investment companies, you gave, so far as you could, the aggregate returns of individuals and corporations and investment companies so far as you could?

A. I did.

Q. And then this one other question. This loan company which you say is included in the list, I believe that is the Provident Loan Company, is it not?

A. Yes.

Q. And that was a small corporation—do you recall the capital of that company?

A. I do not. It was a small amount.

Q. This is true, is it not, that that was—

A. My opinion is $50,000, but I will not be sure that I am right on that.

Q. That was not organized as a money-making enterprise, was it?

A. It was not.

Q. It is rather a benevolent institution formed for the purpose of protecting employes against loan sharks?

A. It was really brought about, Mr. Ryan, by the fact that I discovered, in the old concern of Finch, Young & McConville, that about ninety per cent of our employes were in the hands of the loan sharks, and I immediately settled the matter. I mean that I paid treble the amount that they had actually advanced. We had some people there who had borrowed $100 and received only $90 and they still owed $100. They might pay back $90 and they still owed $100 and those people I settled with for nothing. Then I advanced money for all the employes and they have paid it

off as they could, and that was really the starting-point of the organization of that company.

Q. It was organized for that purpose, and it is still being conducted?

A. My understanding is. I know nothing about it now except in a general way. It was organized purely for benevolent purposes to prevent that frightful condition.

L. C. SIMONS,

sworn on behalf of defendant, testified:

By Mr. O'Brien:

Q. Where do you live?

A. In St. Paul.

Q. And what is your business?

A. I am president of the Twin Cities National Bank.

Q. That is a bank located at Midway in this district?

A. It is located in what we call the Midway district in St. Paul.

Q. What is the capital of that bank?

A. $200,000.

Q. And surplus?

A. $50,000.

Q. Undivided profits?

A. About $10,000.

Q. It is a national bank organized under the laws of the United States as a national Bank?

A. Yes, sir.

Q. What are the holdings of that bank in real estate mortgages?

A. At the present time?

Q. Yes.

A. Approximately $70,000.

Q. And what were its holdings in real estate mortgages on the 1st of May, 1921?

A. About from seventy to ninety thousand.

Q. May 1, 1922?

A. About the same amount.

Q. Do these amounts represent the entire dealings of the bank in real estate mortgages?

A. No; those represent the amount of mortgages that we have on hand or had on hand at those dates.

Q. Now, I assume that the bank does the ordinary business of receiving deposits and loaning money, and commercial paper?

A. Yes, sir.

Q. Issuing time checks?

A. Time certificates, yes.

Q. Certificates of deposit?

A. Yes.

Q. Have you a savings department in your bank?

A. Yes.

Q. What other business transactions are carried on by the bank?

A. You mean what securities that we invest our funds in? Commercial paper, notes of customers, government bonds, county warrants, village warrants, school districts orders, occasional small amounts of city loans within legal requirements.

Q. Do you deal in industrial bonds, bonds of corporations, private corporations?

A. Yes, sir.

Q. Have you bought and sold such bonds as that?

A. Yes. I wouldn't say that we sold those bonds. We bought them for our own investment.

Q. In the other classes of securities, what do you mean by dealing in them? Do you buy them or wait until they are paid?

A. In case of mortgages chiefly we buy them and sell them to investors who come to us for investment.

Q. What is the average maturity of your farm mortgages?

A. Most all run five years.

Q. And this $70,000, how much are farm mortgages?

A. They run most all five years.

Q. I say of the $70,000 mortgages that you have, how many, what is the aggregate amount of the farm mortgages?

A. Well, I meant that about $70,000 is the amount of farm mortgages.

Q. Have you in addition to that any city mortgages?

A. Yes, a few; perhaps from five to ten thousand dollars. We can't take city mortgages running longer than a year, so the amount is small.

Q. What was the amount of your holdings in United States government bonds on May 1, 1921?

A. I would say upwards of $300,000.

Q. On May 1, 1922?

A. About the same amount. It varies somewhat. About that.

Q. And at the present time?

A. It happens to be just $300,000 at the present time.

Q. How long have you been president of the Twin Cities Bank?

A. Ever since its organization. Our bank first organized as a state bank in 1908, and converted into a national about three years ago.

Q. And how long have you been engaged in the business of banking in Minnesota?

A. About thirty-nine years, I am sorry to say.

Q. Will you state with what money investments, moneyed capital and business transactions that a national bank comes into competition in this state.

A. Generally speaking, it comes into competition with every other person and corporation that is in the market to loan money within the limits that we are permitted to

lend by law. I mean by that we can't take mortgage loans for longer than five years nor city loans for longer than one.

Q. What do you mean by every person who lends money?

A. Most everybody that is in the market to lend money wants to lend it, and we want to lend it, and there is competition there, in regard to the matter of rates in our neighborhood.

Q. Under what class do you place people that purchase mortgages from them?

A. They are investors who want to invest their funds, apply sometimes to us, sometimes to other people.

Q. Do you call that lending money?

A. On their part.

Q. Yes.

A. Yes.

Q. That is what I want to ask you; what you mean by lending money: Do you mean buying securities is lending money? You used the term lending money as including the purchase and investment in securities.

A. Yes.

Q. So that your answer is that every one who makes an investment in a security because of the return that he will receive in interest for that security is lending money?

A. Yes.

Q. Is in competition with the bank?

A. Yes.

CROSS-EXAMINATION

By Mr. Ryan:

Q. Do you consider that the man who comes into your bank and buys the mortgages which you have for sale is in competition with you?

A. He isn't in competition with us, the moment he applies to us, I suppose.

Q. What is that?

A. He wouldn't be in competition with us when he is buying securities from us. I take it, that he would be in competition with other banks when he is buying securities from us.

Q. That is your idea of the manner in which that individual having funds to invest comes in competition with national banks?

A. Yes.

Q. Is that the only tangible, definite way that you think of in which he does come in competition with national banks?

A. No, we have people come to us from, we will say, country banks, write to us asking us what we will give them for certain securities they hold. They get quotations from other banks and from other individuals, from investment companies, and sell those securities where they can get the best bargain. Sometimes we buy them. Sometimes we make a quotation and don't get them.

Q. Can you definitely illustrate or point out in what other respect individuals are in competition with national banks in respect of money which they have to loan on investments?

A. Individuals buy commercial paper from brokers the same as we do.

Q. Brokers buy commercial paper?

A. Individuals buy commercial paper from brokers. Brokers offer their paper to individuals as well as to the bank.

Q. Do you know that to be true, Mr. Simons, or is that just a general impression?

A. I know that to be true.

Q. You know individuals who do buy commercial paper from brokers?

A. Yes.

Q. Do you know how extensive that is?

A. I couldn't say how extensive that is, no sir.

Q. To what extent, during the year 1921, can you say within your knowledge that any individual in Ramsey county did buy commercial paper?

A. I couldn't tell you to what extent, Mr. Ryan. I often have conversation with our customers who tell me that they have bought certain commercial paper from commercial paper houses.

Q. Individuals customers?

A. Individual customers, yes.

the extent of that?

Q. But you are not able to give us any statement as to

A. No, I can't give you any computation on that.

Q. Can you point out definitely any other respect in which individuals with money to invest or to loan come in competition with a national bank?

A. Yes, individuals through savings accounts, they come in competition with banks. They will either deposit their money with us or buy securities from somebody else.

Q. Can you point to any other definite, tangible instance in which individuals such as you speak of, individuals with money to loan or invest, come into competition with national banks?

A. Yes, many individuals and companies invest in tax certificates. We do the same.

Q. Any other specification?

A. I am not thinking of any other this minute.

R. C. LILLIBRIDGE,

sworn on behalf of defendant, testified:

By Mr. O'Brien:

Q. Mr. Lillibridge, what is your business?

A. Auditor of the First National Bank of St. Paul.

Q. Where do you reside?

A. In St. Paul.

Q. What is your age?

A. Thirty-six.

Q. How long have you occupied the position of Auditor of the First National Bank?

A. I have occupied that position since December, 1920.

Q. Before that time what was your business?

A. I was assistant National Bank Examiner, assisting Chief National Bank Examiner of the Ninth Federal District.

Q. I can't hear you.

A. I was Assistant National Bank Examiner assisting the Chief National Bank Examiner of the Ninth Federal Reserve District.

Q. Minnesota is part of that district, is in that district?

A. Yes, sir.

Q. And where were your headquarters?

A. In Minneapolis.

Q. How long did you occupy that position?

A. About fourteen months.

Q. And before that what was your business?

A. Prior to that for a little over a year I was in the United States Navy.

Q. In what position?

A. I enlisted as a gob or ordinary seaman.

Q. What were you doing?

A. Musician most of the time in the Navy.

Q. And before that what was your business?

A. In the banking business.

Q. Where?

A. In southern Wisconsin.

Q. Are you familiar with the books and records ordinarily kept by National Banks?

A. I am.

Q. And other banks, state banks?

A. Yes, to a certain extent.

Q. You are not a certified public accountant?

A. No, sir.

Q. But are you an accountant?

A. Yes, in a way, I feel that I am.

Q. Bookkeeper?

A. Yes, sir.

Q. Have you made certain tabulations with reference to the banks and investment companies of the state of Minnesota?

A. Yes, I have done that.

Q. Will you produce your table entitled Comparative Figures in Thousands showing condition of National Banks in Minnesota April 28th, I think it is, 1921, and May 5, 1922? Mr. Ryan has furnished me with certain of his tables and I am inclined to reciprocate, and I think counsel has a copy of this (Deft's. Ex. M). Will you please state what Ex. M shows.

A. Ex. M shows comparative abstract in thousands the condition of national banks in the state of Minnesota as of April 28, 1921, and May 5, 1922.

Q. The heading of this recites that it is shown in thousands?

A. Yes, sir.

Q. Therefore, to get at the correct amount of each of those items, three ciphers are to be added?

A. That is right.

Q. The first column of Ex. M shows what?

A. Loans and discounts.

Q. No, the first column.

A. The first column shows the banks in Minnesota.

Q. That is outside of St. Paul or Minneapolis?

A. Yes, sir.

Q. Is that outside of the corporate limits of the cities or outside of the counties of Hennepin and Ramsey?

A. That is outside of the reporting banks in Minneapolis and St. Paul.

Q. Outside the cities of St. Paul and Minneapolis?

A. Yes.

Q. The first column shows the resources and liabilities of all of the national banks in Minnesota outside of St. Paul and Minneapolis?

A. Yes, sir.

Q. And the second column gives the same information with reference to the banks in Minneapolis?

A. That is right.

Q. The third column gives that same information with reference to the banks in St. Paul?

A. That is right.

Q. And the fourth column gives that same information as to all of the national banks in the state of Minnesota?

A. That is right.

Q. Of April 28th, 1921?

A. Correct.

Q. Now, the fifth column corresponds with the first column except that it is at the date of May 5, 1922?

A. Yes, sir.

Q. The sixth column corresponds with the second column except as to that date?

A. That is right.

Q. The seventh column corresponds to the third column?

A. That is right.

Q. And the eighth column corresponds to the fourth column?

A. That is right.

Q. Then you have a summary of those amounts at the bottom of the exhibit?

A. Yes, sir.

Ex. M was received in evidence without objection.

Q. From what is this information taken?

A. This information is compiled from the abstract of condition of national banks published by the Comptroller of the Currency and is his report to Congress.

Q. It is from the report of the Comptroller of the Currency?

A. Yes, sir. May I amend that statement. Those, of course, are compiled from the abstract of the condition of national banks published by the Comptroller of the Currency under Nos. 130 and 138, and not taken from his report to Congress.

Q. (Ex. N. shown witness.) What is that?

A. Ex. N, abstract of loans in thousands secured by real estate held by national banks in the state of Minnesota on June 30, 1921, and June 30, 1922.

Q. From what is that statement prepared?

A. This statement is prepared and computed from the annual report of the Comptroller of the Currency made to Congress.

Q. The first column in the upper half of the exhibit shows what?

A. The first column shows the real estate loans held by banks, national banks, in the state Minnesota on June 30, 1921.

Q. Outside of St. Paul and Minneapolis?

A. Yes, sir.

Q. The second the amount in Minneapolis, and the third column the amount in St. Paul?

A. That is right.

Q. And the fourth column the total?

A. That is right.

Q. And the lower half of the sheet, the second division of the sheet Ex. N gives the same information in the same way as of June 30, 1922?

A. That is right.

Q. And the total mortgages so held at that date, amounted, according to this exhibit, to $75,409,000?

A. For June 30, 1922, yes.

Q. In this case also the amount is shown in the thousands so three ciphers should be added to get the exact amount?

A. That is right.

Ex. N offered and received without objection.

Q. Ex. O shown to witness. Please explain Ex. O.

A. Ex. O is an abstract showing the total individual deposits, United States bonds and securities, state of Minnesota bonds and municipal bonds of the state of Minnesota held by banks in Ramsey county on May 1, 1921, and May 1, 1922.

Q. That applies to both state and national banks, does it not?

A. Yes, that applies to all banks in Ramsey county, with the exception of one, I think. It was impossible to get the figures from one bank.

Q. What is that?

A. With the exception of one bank.

Q. Under the heading "State of Minnesota bonds" and "Municipal bonds" what have you included there?

A. That includes all of the bonds held by the respective banks on those dates other than United States bonds and securities.

Q. Does it contain all of the other bonds and securities, or is it limited to those municipals?

A. No, this contains just the state of Minnesota and state of Minnesota municipal bonds held by the banks under those dates.

Q. How did you obtain the information for the preparation of this tabulation?

A. This information was obtained from the banks themselves.

Q. Did you visit each bank?

A. I either visited each bank or called them by phone or got the information by letter.

Q. And was this prepared by you in exact conformity with the information you received as to those banks?

A. It was.

Q. And you believe it to be a true statement?

A. Yes, sir.

Q. As to the matters therein stated?

A. Yes, sir.

Ex. O was offered and received without objection.

Q. Ex. P shown witness. Ex. P, as I understand it, is and contains the details of the totals given upon Ex. O?

A. That is correct.

Ex. P offered and received in evidence without objection.

Q. Ex. Q shown witness. Will you please state what Ex. Q is?

A. Ex. Q shows the aggregate dealings in the local investment market of the years 1921 and 1922.

Q. How was this statement prepared and from what data?

A. This statement was prepared from the monthly bulletins issued by the Federal Reserve Bank, and contains information and figures that they have received from eighteen investment houses located within the Twin Cities only.

Q. Are they all Minnesota corporations?

A. No, of the eighteen.

Q. Did you get any information as to which was Minnesota corporations?

A. I have. Of the eighteen investment houses reporting to the Federal Reserve Bank eleven of these investment houses are firms incorporated under the laws of the state of Minnesota.

Q. From whom did you receive that information?

A. I received that information from Mr. Ebersole, assistant Reserve Agent in whose department these figures are compiled.

Q. Did you visit the Federal Reserve Bank for the purpose of obtaining these figures?

A. I did.

Q. And did you examine the records of that bank?

A. I did.

Q And the reports of the companies made to the Federal Reserve Bank?

A. Yes, I have copies of reports with me.

Q. And had the assistance of the head of that department in preparing these statements?

A. Yes, sir.

Q. And was this statement truthfully and correctly compiled from the best information you could obtain of the Federal Reserve Bank?

A. It is.

Q. And it is correctly stated on Ex. Q?

A. Yes, sir.

Q. That is correct?

A. Yes, sir.

Ex. Q offered and received in evidence without objection.

Witness: I am going to add a little to my statement.

Q. If there is anything you want to add, Mr. Lillibridge, add it.

A. The eleven banks that I have mentioned and incorporated under the laws of the state of Minnesota reporting to the Federal Reserve Bank and whose figures are included in this total on Ex. Q represent ninety per cent.

Q. You said eleven banks?

A. Eleven investment houses.

Q. You didn't intend to use the word "banks"?

A. No. Their figures represent ninety per cent of the total figures reported.

Q. Ex. R shown witness. Please explain what Ex R is.

A. Ex. R shows in total the aggregate dealings in cattle loan paper of three of the larger cattle loan investment companies operating in Minnesota for the years 1921 and 1922.

Q. Where did you obtain the information contained in Ex. R?

A. This information was obtained from officials of the different companies whose totals are included in these totals.

Q. Are each of those companies organized under the laws of Minnesota?

A. No; two companies are organized under laws of Minnesota.

Q. And a third is organized under the laws of some other state?

A. West Virginia.

Q. And is operating here in Minnesota?

A. Operating.

Q. And it contains the aggregate of all of them?

A. That is correct.

Q. Is this statement truthfully compiled from the information which you obtained?

A. Yes.

Q. And that is the best information you could obtain?

A. Yes.

Ex. R was offered and received in evidence without objection.

Q. Ex. S shown witness. Will you please state what Ex. S is?

A. Ex. S is an abstract showing total capital surplus and undivided profits, real estate, United States bonds and securities and state of Minnesota bonds and securities held by banks in Ramsey county on May 1, 1921, and May 1, 1922.

Q. Both state and national?

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A. Yes. all banks with the exception of—

Q. What about savings banks and trust companies?

A. It includes all national banks, all state banks, and three savings banks and trust companies.

Q. You have included the savings banks having capital stock?

A. Having capital stock, yes, that is the idea.

Q. And then at the bottom is a recapitulation of those items?

A. Yes, sir.

Q. Now, to understand this, in the first column of figures appears the total capital, surplus and undivided profits of national banks in the county of Ramsey?

A. Yes, sir.

Q. $14,009,788.21?

A. $14,009,788.21.

Q. The aggregate real estate holdings by those banks is $2,876,697.69?

A. That is right.

Q. Leaving for the aggregate amount upon which taxes were computed, $11,133,090.52?

A. That is right.

Q. Those same banks, national banks, on May 1, 1921, held United States government securities to the amount of $8,952,254.81?

A. That is right.

Q. And municipal bonds and securities in the state of Minnesota in the amount of $653,600?

A. That is right.

Q. Now, further along upon the same sheet that same information is repeated for May 1, 1922?

A. Yes, sir.

Q. And in the next division that same information is given for state banks?

A. That is correct.

Q. In the aggregate. And then finally at the bottom there is a recapitulation?

A. Yes, sir.

Q. What was this table Ex. S compiled from?

A. The first two columns representing capital, surplus and undivided profits, and the real estate was compiled from the personal property tax returns submitted by those institutions.

Q. Found in the Auditor's office in this county?

A. Yes, sir. The third column was computed by myself. The fourth and fifth column, showing the United States bonds and securities held and the state of Minnesota bonds and securities held, that information was obtained from the banks themselves.

Q. Contained in one of these former tabulations that you have presented?

A. Yes, and that holds true of the figures representing May 1, 1922, also.

Q. Is that table Ex. S correctly compiled from the information you so received?

A. Yes.

Ex. S was offered and received without objection.

Recess until 2 p. m.

Q. Deft's. Ex. T shown witness. Will you please state what Ex. T is.

A. Ex. T represents the comparative statement showing the condition of the First National Bank of St. Paul as of May 1, 1921 and May 1, 1922.

Mr. O'Brien: Mr. Ryan, is that statement in the form in which you desire it?

Mr. Ryan: Yes; the State will offer in evidence Ex. T.

Mr. O'Brien: It is an admitted statement which was prepared at the request of the State, but we would just as soon offer it. It is marked Ex. T, so it will be offered in evidence.

Q. Calling your attention to Defts. Ex. Q, aggregate

dealings in local investment markets for the years 1921 and 1922, what do you mean by local investment market?

A. That means just what the name implies, local investment market in the Twin Cities, St. Paul and Minneapolis.

Q. And you say this exhibit was compiled from reports made by some eighteen companies to the Federal Reserve Bank of this district.

A. That is correct.

Q. Did those reports include all of the investment companies?

A. No, it just included those eighteen that the Federal Reserve Bank has gotten to report figures to them.

Q. Does your tabulation include all of the reports made to the Federal Reserve Bank?

A. It includes the eighteen that reported to them continuously through the two years, yes.

Q. But all of the investment companies have not reported to the bank?

A. No.

Q. Do you know, in a general way, from your experience of banking and from the investigation which you have recently been making, whether or not there is a considerable amount of money loaned on unsecured commercial paper through brokers?

A. Yes, I do; and I might say in that connection, too, that the commercial paper sales are not included in these figures.

Q. Are not included in the figures given on Ex. Q?

A. No.

Q. Are there any corporations in Minnesota dealing in commercial paper?

A. Yes.

Q. Have you ascertained the amount of capital stock of any such corporation?

A. One that I have in mind, yes.

Q. How much?

A. That has a capitalization of $250,000.

Q. Located in the Twin Cities?

A. Located in the Twin Cities.

CROSS-EXAMINATION

By Mr. Ryan:

Q. Have you any objection to giving the name of the corporation which you have just referred to?

A. I would rather not unless it is absolutely necessary.

Q. It isn't a trust company?

A. No, it is strictly a corporation.

Q. Does its corporate name indicate the nature of its business?

A. No, I do not think it does.

Q. An assessing officer or public official having only the name of the concern before him would not recognize it as a company engaged in the business which you have described?

A. The name is so well known, I think he would.

Mr. O'Brien: I think you better give the name. What was the name of the company?

Witness: Lane, Piper & Jaffray, incorporated under the laws of the State of Minnesota.

Q. Where is its principal place of business?

A. Minneapolis.

Q. Referring to Ex. Q, you have a statement of dealings in the local investment market as reported by different investment houses. What do you include in investment houses?

A. The different investment houses reporting to the Federal Reserve Bank do so in strict confidence. The names of those different houses were not revealed to me, although I understand it to mean houses that deal in these different

classes of securities enumerated under this schedule, buy and sell those securities.

Q. Do you know whether or not it includes trust companies?

A. I presume it does.

Q. Include banks?

A. It doesn't include banks, no.

Q. Do you know why that distinction is made in gathering those statistics?

A. No, I do not.

Q. Include savings banks?

A. I assume not. I am not sure, but I would say not, from my information.

Q. Do you know whether any of those investment houses are located in St. Paul, in Ramsey County?

A. Yes, I think they are, although I don't know the names,, but I know the endeavor of the Federal Reserve Bank is to get all of these principal houses to report to them so they can obtain a line on how many sales of this character is going on in the Twin Cities.

Q. And do you know whether or not these so-called investment houses, in all instances, are corporations?

A. Eleven out of the eighteen reporting to the Federal Reserve Bank, I am informed are companies incorporated under the laws of the State of Minnesota.

Q. As to the others, are they corporations or individuals?

A. The other seven firms are represented by branch sales offices of corporations in other states, and the remainder are partnerships or unincorporated companies of this state.

Q. I understood you to say awhile ago that eleven were Minnesota corporations, and you desire to correct that?

A. No, that is correct; eleven firms are known to be Minnesota corporations.

Q. So that eleven Minnesota concerns are all corporations?

A. Of the other seven, several are branch sales offices of corporations in other states and partnerships or unincorporated companies of this state. Now, I don't know just what that split in the seven is.

Q. You haven't any information, have you, as to the distribution of these mortgages and other investments in respect to whether or not they went to Minnesota individuals or Minnesota corporations?

A. I have not, only in the general way as shown by the schedule.

Q. That is the distribution among dealers, bankers and the general public, but there is no indication as to the territory?

A. No. There is no indication as to territory.

Q. There is the item, "Average per cent of total sold to other dealers." Do you know what kind of concerns the word "dealers" includes?

A. Why, I think it is just the sales of possibly one investment house to another. One investment house may be handling a certain class of securities and another investment house may want some of that particular kind of security for a client. The other dealer propably sells him some of those securities.

Q. By investment houses, you include trust companies?

A. Yes.

Q. Now, turning to Ex. R, will you state whether or not any of those capital loan and investment companies are operating in Ramsey county?

A. They all are operating in Ramsey county.

Q. Have any of them their principal place of business in Ramsey county?

A. I would say they all have.

Q. Are you sure of that?

A. Yes. They all are. Their principal offices are in Ramsey county, St. Paul and South St. Paul.

Q. South St. Paul isn't in Ramsey county.

A. Well, I will amend my statement then to that effect. I know that it isn't now that you call my attention to it, but I was thinking of it in that way. No, one company. Its principal office is not in Ramsey county. No, two companies are not. Their principal offices are not in Ramsey county. One is.

Q. Is the one located in Ramsey county a Minnesota corporation?

A. Yes.

Q. Do you know the name of that company?

A. Yes, that is the Capital Loan & Investment Company.

Q. Is that affiliated in any way with the Capital National Bank or the Capital Loan & Trust company?

A. I don't think they are affiliated. The bank and the company I do not think is affiliated in the sense that the bank owns the stock of the other, or vice versa. In fact, I am not really informed on that particular point.

Q. You do know that there is some relationship between the two companies?

A. I think so.

Q. That this Capital Loan & Investment Company is in some way connected with the Capital National Bank?

A. I think so.

Q. Also with the Capital Trust & Savings Bank?

A. That is just my assumption.

Q. Well, it can stand that way. If you should discover that your assumption was wrong, it may be corrected.

Mr. O'Brien: Yes.

Q. You have a distribution, "Amount sold to individuals of Minnesota," total amount sold to individual firms, corporations and banks in Minnesota?

A. Yes.

Q. You don't know what the amounts sold to banks and corporations in Minnesota were, do you?

A. Yes, by making a deduction of the second from the third item.

Q. That would be true if you have included in your sales to individuals sales to firms in Minnesota.

A. Well, yes.

Q. You use the word "firm" and "individuals" indiscriminately, do you?

A. Yes.

Q. In the line, "Amount sold to individuals in Minnesota" you include all sales to individuals and partnerships?

A. That is correct.

Q. You don't know what amounts were sold to individuals or partnerships in Minnesota, do you?

A. No, I did not get that segregation.

CYRUS P. BROWN,

sworn on behalf of defendant, testified:

By Mr. O'Brien:

Q. Your name is Cyrus P. Brown?

A. It is.

Q. What is your age, Mr. Brown?

A. Fifty-five years old, sir.

Q. And you are a resident of St. Paul, Minnesota?

A. Yes, sir.

Q. What is your occupation?

A. I am president of the First National Bank.

Q. The defendant in this action?

A. The defendant in this case.

Q. How long have you occupied that position?

A. I have been Vice-president and President for the last nine years, about half in each position.

Q. You have been connected with the First National Bank for the last nine years?

A. Nearly ten years.

Q. And prior to that time what was your business?

A. Banker in Providence, Rhode Island.

Q. And how long have you been a banker, all together?

A. Thirty-five years, or more.

Q. What position did you occupy in the bank in Rhode Island?

A. I was a director in several banks, and President of the Industrial Trust Company, a large banking corporation there.

Q. You are generally familiar with the business of banking?

A. I am.

Q. As conducted by national banks and state banks?

A. I am.

Q. Also familiar with the business carried on by trust companies?

A. I am.

Q. Investment companies??

A. I am.

Q. Mr. Brown, it has been testified here that in the state of Minnesota, in St. Paul, there is a great deal of money loaned to mercantile establishments, manufacturing establishments, through note brokers.

A. That is true.

Q. Is that true?

A. That is true.

Q. Now, some concerns which negotiate such loans as that also have lines of credit in different banks?

A. They do.

Q. Now, how is that operated? What is the general course of procedure?

A. That operates to make a very difficult and hard competition for the bank. The practice is for those jobbing houses, in St. Paul and Minneapolis, to go to their local banks and secure a line of credit. That, from the standpoint of the jobber, is a call on a certain definite sum of money, no matter what may happen in good times or bad times; he then, in good times, when the banks wish to loan money, goes to the note broker and sells his note, because he always has a call upon the bank for that definite sum of money. We often have the experience—we have within a few weeks—we call up a local customer and say, "We would like to loan you some money," and he will say, "I am not using good money" but will get the offerings from a note broker with some man's paper. In that way it makes a very difficult and hard competition for us. Of course, when we wish to loan money, the note brokers take our place. Where they are not so anxious to loan money, the jobber or customer comes to us and makes us step in the gap. That happened very noticeably during the stringency of 1920 and 1921 when it was difficult for note brokers to place paper, and in many cases we were oblidged to increase these lines of credit that we had in these various houses.

Q. Has the First National Bank of St. Paul engaged to any extent in the business of loaning money upon real estate mortgages?

A. Not to any great extent, no.

Q. Has the Bank acquired mortgages to secure past-due indebtedness?

A. Yes, and we loan our country correspondents very frequently on mortgages. We carry mortgages in that way.

Q. How about loaning money upon collateral security where the collateral consists of notes secured by real estate mortgages?

A. Yes, we loan quite a little that way.

Q. National banks, however, are authorized to loan money upon real estate security?

A. Yes, we are authorized to loan within the radius of 100 miles or say possibly up to twenty-five per cent of our capital or one-third of our time deposits.

Q. Now, not speaking of the actual practice of the First National Bank, but referring to national banks generally, how is the money loaned upon real estate security in competition with the business of national banks?

A. The national banks are, you might say, substantial reservoirs of credit. Almost every individual is, to a greater or less degree, a smaller reservoir of credit. If he loans money on a mortgage or on a bond to his brother or his cousin or his aunt, or to anyone else, that is in competition with us, because it takes from us a possible customer. We often have cases where a man will check money out and loan a relative. We happened to know of the transaction. So it acts in both ways. It takes money out of our bank, and of course, in the aggregate, that is a very large amount.

Q. State whether or not the rate of interest charged upon loans made upon real estate security, and the rates of interest charged upon unsecured commercial paper bear any relation to each other.

A. The rate of interest charged upon real estate security would be higher than that charged upon commercial paper.

Q. Do they bear any relation to each other?

A. Any fixed relation?

Q. No, I am not talking about that. Any effect upon the other?

A. Yes, certainly, any money loaned would have an effect. If a man couldn't borrow on a mortgage he would borrow on somebody's endorsement.

Q. For instance, if all of the banks in a given territory were to charge ten per cent upon bank loans, and at the same time money could be obtained upon real estate secur-

ity for five per cent, would that affect the amount of loans made by the bank?

A. It certainly would.

Q. And supposing the reverse were true, that loans upon real estate could be obtained for two or three per cent, while the banks were charging six or seven per cent, might that affect the amount of money which the bank would loan?

A. Yes.

Q. Do the national banks of Minnesota, including the First National Bank, deal in bonds, municipal bonds?

A. Yes.

Q. Of the state of Minnesota?

A. To a greater or less degree, yes.

Q. Is it or is it not true that when an issue of bonds is made, the First National Bank of St. Paul is sometimes a bidder?

A. Occasionally a bidder, yes.

Q. What was your experience, a few days ago, with reference to some bonds of the city of St. Paul?

A. We bid and lost.

Q. How large an issue of bonds was that?

A. One million dollars.

Q. And you were bidding in connection with some other institution, were you?

A. Yes, we were bidding in conjunction with three or four others.

Q. Probably a smaller bid and you lost, or higher bid. I guess the highest bid gets it, doesn't it?

(No answer.)

Q. Now, does the money generally outside of banks invested in municipal and corporate securities come into competition with the national banks?

A. Why, any money invested in corporate securities or any other kind of securities comes in competition with any-

one who loans money on those securities or on other securities—can't help doing so.

Q. And that applies to all of the securities held and dealt in by national banks?

A. Yes.

Q. Real estate mortgages, municipal bonds?

A. Yes, anything that takes money.

Q. What is that?

A. Anything that takes money, because that is the commodity we sell. The commodity furnished by anybody else is in competition with us.

Q. Do the current rates charged for the loan of money vary?

A. Vary from time to time, yes, according to the supply and demand.

Q. What is that?

A. They would vary according to the supply and demand.

Q. And upon what class of securities do they vary? Do they vary in bank loans?

A. They vary in bank loans and they vary with the degree of the security of the quality of the security, perhaps I should say.

Q. Well, at these periods do the rates which can be made upon municipal securities change?

A. Yes.

Q. For instance, at one period of one year, the City of St. Paul might be able to negotiate its bonds at one rate; is that true?

A. Yes.

Q. And the next year, at a different time, not be able to obtain as good a rate?

A. That is true.

Q. And do the values of the securities themselves vary from time to time?

A. They do.

Q. Is it true that a bond or a security which one year might be sold so as to return a given net return to the investor of five per cent, the next year, under other conditions, could not obtain a better price than one which would return seven per cent upon the investment?

A. That might be true.

Q. But there is some variance at different times?

A. There is from year to year.

Q. What causes that variance?

A. The law of supply and demand, naturally.

Q. Do you mean by that, the amount of money available in investment as compared with the amount of money required by borrowing—

A. That is exactly it.

Q. So that the more available money there is in any community, in any state or in any country for investment, for loan and interest, affects the rates?

A. It does.

Q. And state whether or not in that way all of the money of any community or state or country necessarily is in competition.

A. It is.

Q. And each investment, to a greater or less extent, is of that—

A. Each investment.

Q. —character, each investment of money, for the purpose of receiving in return interest computed upon that money, is in competition with every other item of money similarly invested; is that the case?

A. That is correct.

Q. Now, Mr. Brown, I would be very glad if you would go on and explain this in your own way any further.

A. Why, as far as competition is concerned, the banking business is one business in the world that almost anyone

can compete with without a sign, without even an office. If a man has an apple stand on the street, he has to get his location, get his merchandise and do business, but a man can compete with a bank with simply some money in his pocket. If he makes a loan to his brother, to his cousin, to his aunt, to his father, that loan is in competition with the bank because it takes from the bank the possibility of loaning its own money to that person.

Q. There is one other form of competition that I would like to call your attention to and get your judgment upon. Is it true that the investment of money by individuals or firms or corporations in securities such as real estate mortgages, municipal bonds, corporation bonds, United States government bonds, and warrants, reduces the amount of deposit in the banks?

A. It certainly does. In other words, if people don't put it in an investment they would keep it on deposit in the bank. People who invest money very rarely keep money elsewhere than on deposit in the bank. They don't keep it in their house or in their cellar or places like that. Take a man who is intelligent enough to invest his money, he puts it in a bank. When he makes an investment he draws it out of the bank.

Q. But I presume where the investment is made in a security issued in the same locality, that the proceeds of that investment come back to the bank from the seller of the security, do they not?

A. Well, very seldom a person borrows money to put it on deposit in the bank. If it is a corporation, and he is buying material or buying machinery, very seldom that the money stays in the bank.

Q. Have you had occasion to examine the financial statements of various mercantile institutions in St. Paul?

A. I have.

Q. And many of those in Minneapolis?

A. I have.

Q. And other parts of the state?

A. Yes. We get them at regular intervals where they are our customers.

Q. From those examinations, are you able to form an approximate estimate of the amount of money loaned to mercantile and manufacturing institutions in this state through note brokers upon their unsecured paper?

A. I would be able to get the amount. It probably wouldn't be anything like the true amount because it wouldn't be large enough.

Q. An approximation of it, the smallest amount?

A. Not less than 50 million dollars.

Q. In a year?

A. In a year.

Q. That goes on from year to year, does it?

A. That goes on from year to year.

Q. Now, is this the state that you are giving, the fifty million, the state of Minnesota?

A. Yes.

Q. Can you give us an approximation for the city of St. Paul?

A. Half of that; 25 million, I would say. Perhaps I should correct that, perhaps 15 million. I have no way of knowing the exact amount. Those figures are under rather than over.

CROSS-EXAMINATION

By Mr. Ryan:

Q. Mr. Brown, just before going into this question of competition, a question or two concerning the bank itself. Can you give us the approximate value of the capital of your bank per share as of May 1, 1921?

A. Well, on May 1, 1921, approximately $200 a share. You mean the liquidated value?

Q. The fair market value.

A. Well, the only sales I have known of have been for \$205 a share for some time. That has been the only figure I have known. Substantially \$200 a share.

Q. That would be true for May 1, 1922?

A. That would be true for May 1, 1922.

Q. Now, when you speak of the competition of money in loanable funds generally of the national banks, you don't particularly speak of a competition which you can directly and tangibly feel at your bank, do you?

A. Oh, yes, indeed, we can feel it. Of course we can feel it.

Q. That is, you feel it in respect to the—

A. We know there is a large volume of money loaned to our customers that we ourselves should loan. Just as an instance of that: Just before coming here the other day, I took at random eleven statements of borrowers of ours and I found nearly a million and a half dollars loaned to them by the officials or employes of companies. There is a case where we would directly feel it. That is money that we would naturally loan ourselves, but it is loaned to them by the individual.

Q. The loans which you lose—you have instanced one—speaking of 1921, can you specify more particularly how you lose loans that you would otherwise have made?

A. Well, it would be difficult at this time. Of course we know it has happened every day. We are in competition with these note brokers who are constantly at the offices of our customers, you know, seeking to buy their paper.

Q. Do you ever buy any paper from note brokers?

A. We do. We loan them money on paper. They will buy paper and borrow money on it.

Q. That is the business of a broker, isn't it, to offer a loan at a certain figure?

A. Well, there are more dealers than brokers. They will buy a note at a certain rate of interest and sell it, probably sell at a worse rate. They may sell a note at a loss to themselves.

Q. And they sell it to the banks?

A. Banks and individuals.

Q. Well, isn't it mostly to the banks?

A. Probably the larger proportion would be to the banks because they are the larger reservoirs of credit, but they also sell to individuals.

Q. Then isn't it true that this competition that comes from brokers is a competition of other banks?

A. Not entirely so. Those people are dealers in notes, the same as we are. They will go and borrow money, carry perhaps several million dollars of paper. Now, permit me. He buys or could carry that much, but doesn't always sell it. He may sell it or he may not sell it. They always carry large stocks themselves.

Q. Let us speak more definitely instead of speaking broadly, generally and concretely, of the brokers that you are in competition with here in St. Paul. Is it true that there are any such brokers here in St. Paul in competition with you who carry on their own funds any appreciable portion of the loans that they acquire?

A. Yes.

Q. I understood you to say that during the year 1921 there was fifteen million dollars of such loans to other brokers in St. Paul.

A. There would be more than that amount of paper sold through Minneapolis or note brokers doing business in this district.

Q. I understood you to say, generally, that you put the figures in St. Paul at fifteen million dollars.

A. An amount of paper that was sold through note brokers by St. Paul people.

Q. Is there any note broker doing business in St. Paul who during the year 1921 acquired and held any important part of that fifteen million dollars?

A. Yes. They would have to carry quite a substantial portion of it. Their sales are very large.

Q. What would you say would be the largest amount of money held by note brokers in St. Paul in 1921, with his own funds?

A. These note brokers don't all live in St. Paul. The principal note brokers are in Minneapolis.

Q. I am speaking only of the St. Paul note brokers now.

A. I couldn't tell you that.

Q. Now, going over to Minneapolis, you say they come over and operate here?

A. Yes.

Q. Can you give us a minimum amount or the highest amount—

A. I couldn't tell what they were carrying, no. I know we loaned them money, and I know other banks loaned them money.

Q. You know you loaned the brokers money?

A. Yes.

Q. And in that respect, in so far as they loan money to people at St. Paul, they are making loans for you?

A. No, they are not making loans for us.

Q. They aren't acting for you at the time that they make the loan, but the money which is supplied on that loan comes from your bank to some extent?

A. Yes, but they get a profit out of it that we would otherwise get if they were not in business.

Q. It is a brokerage profit?

A. Yes.

Q. In bringing the people together?

A. No, they buy and sell, as a rule. Very seldom they place paper. They buy and sell on a rate.

Q. But isn't it true that mainly their profit is a brokerage profit, brokerage commission for bringing people together?

A. No, they take the paper, actually take the paper, buy it. It is true, probably, that they don't act as agent in placing paper; they are not agent for the borrower or agent for the bank, but they actually deal in paper as merchandise. They buy and sell the paper.

Q. But usually isn't it true that they buy and sell at the same price?

A. Not necessarily no. If they bought and sold at the same price they wouldn't make any money. They figure it in various ways.

Q. I am speaking of generally—

A. No. I don't think there is any general rule. I think they usually go to a man and offer him so much money for such a time at a certain rate.

Q. Well, isn't it generally true of brokerage people, or people working on that basis, that they endeavor not to speculate; they endeavor to earn the fee for the service they perform and break even on the money transaction?

A. Yes, but competition—the broker's business—that was true a good many years ago, these brokers really acted as brokers, in my early days in the banking business. That was a very good practice. But the competition is so keen today that the jobber or manufacturer selling paper to a broker will make him take the paper and buy it, so that he doesn't let the broker have it as a commission sale; he makes him buy it and pay for it, and then the broker will carry that paper until he can sell it. If the market goes against him he may not be able to sell it. He may have to hold that paper until maturity.

Q. That is very rare, isn't it?

A. No. They don't aim to make bad guesses, but they

make a bad guess as well as anybody else. They always carry a large amount of paper.

Q. In instances in which you have bought paper from brokers, is the rate that you receive smaller or greater than the rate received by the broker, leaving out of consideration the brokerage commission?

A. You mean do we take it at a less rate than the broker?

Q. Yes.

A. Yes, we do.

Q. Less than what he got it for, after deducting his commission?

A. Well, we don't know. We don't know what he paid for it; he might buy and get it for five or four and a half.

Q. Don't you inquire?

A. No, we don't know what rate he got it for.

Q. Does the paper bear any specific rate of interest?

A. No, no rate of interest. It is all discount. A man simply promises to pay on a certain date fifty or $100,000, whatever the note may be for. It doesn't carry any rate of interest. It is discounted. The practice, in buying paper, is to take out the rate of interest. We can't tell what rate the broker took it for, otherwise it would hurt his sales. He wouldn't want to have it specified that he bought it for five and a half and tried to sell it for 5. He will sell it at a certain rate and the interest will be demanded.

Q. How is it that a broker can loan money to one of your customers and sell that paper to you, after taking off his discount, for—

A. I am very glad to answer that, because you asked two or three witnesses yesterday, and they apparently didn't know. The reason for that is that a broker in selling the paper does not disclose—In the first place, the man that holds it—it may be an individual, it may be a corporation. When he sells that paper he sells it with no agreement to

renew. There is absolutely no responsibility. The man knows when he takes that piece of paper that it will be paid when it is due. He gets it without any obligation on his part. Now, when we loan a customer, why that money goes with a call. We know that we have got to take and renew that man's note if he can't pay it at maturity. The broker when he sells a note—the broker has an advantage over us. When he sells that paper he sells that paper with absolutely no condition to it, it has to be paid when it matures. The man knows when he has a note maturing. It isn't so with a jobbing house, it has to pay that note or fail. While with us, we know that if we loan a local jobber here some money and it isn't convenient for him to pay when it becomes due, we have to renew that note whether we want to or not. In other words, our customers have a call on us for so much money, and that call is—Mr. Sommers, I think it was, testified yesterday that his note broker wanted to know if he had any paper that he bought that he had lines of credit open with the bank so he would be sure to have to pay it when it was due. That is where the competition is very difficult for us. In other words, these people have a call on us for so much money and when we wish to loan them the money they won't take it; when we don't want to loan it, they come in and ask for it.

Q. You could, then, at least theoretically, say to your customers, when you loan them money, "We will loan you the amount of money you ask at this rate of interest; we will loan it to you at a lower rate of interest if you agree positively to pay it when due?"

A. Yes, but that agreement wouldn't be worth anything. We know that agreement wouldn't be worth anything. We wouldn't ask them to live up to their agreement. If it was a local concern, and the time came—like the stress of 1921—when they couldn't borrow money outside, they have got to

come to their local banks. We couldn't ask them to pay that.

Q. *Then the situation there is this, that your customers* as depositors occupy a peculiar, special relation which involves something different than the mere loaning of money at a bank upon a contract containing terms which must be lived up to to the letter?

A. There is no contract there. If we are going to loan money we have to loan it that way. Competition makes that, but we have no contract. It is simply that we know if certain things happen, we will naturally do certain things ourselves.

Q. Your relation is something different?

A. This thing is not discussed with our people, except we find one once in a while selling paper to brokers. When they ask for a line of credit, they don't say they are going to treat us that way, only borrow money from us when they want it, but we know probably that that will be the case.

Q. Then there is something above and beyond the mere abstract proposition of making loans to depositors?

A. There is a personal relationship there that has to be observed, yes. You might call it local pride—look out for your own community.

Q. And by which you look after them?

A. Well, banks are quasi institutions anyway.

Q. These note brokers deal with the situation different than that?

A. Absolutely. The customer in selling that paper knows their ability to loan money is dependent upon their ability to borrow money upon their stock in trade, or upon their ability to sell it. That is the reason, when they deal with these note brokers, that they keep their lines of credit open at the bank. The reason the note broker can offer a lower rate of interest is because, as I said, he offers something that is just like a bill of exchange, no obligation to take it.

A man that has a few thousand dollars to invest—Mr. Gordon testified yesterday that he himself bought commercial paper, you remember,—can put it right in there, and he knows he is under no obligation to renew that note. Therefore they can give a little better rate than we can. They simply, when the market is bad, step right out, and that is all there is to it, and then the jobber will come, and the dealer will come direct to his bank to borrow money.

Q. And the bank generally take advantage of the offers of the note brokers?

A. Well, not necessarily. Of course, if we don't buy of note brokers, if they can loan their own customers, they have to employ their funds. The bank has to loan its money on something or get security primarily. Of course it tries to get as good a rate for its money as it can, naturally tries to loan to its own dealers. Of course we often have millions of dollars of lines of credit of people having calls on us for that amount of money, and no loans. We know that they can come and call on us for that amount of money. We call them up and say, "Won't you please take it?" and they say, "No, we don't want it." We naturally try to loan our money first to people who have a call on us. If a man has a line of credit on us, we try to loan him in bad times and good times. He wants to borrow very small sums of money when times are good, when rates of interest are low, and wishes to borrow very large sums of money when times are bad and it is difficult for the note broker to sell his paper; so that makes the most difficult kind of competition for us. You ask if we buy of note brokers; we do. We loan note brokers on the paper that they buy but we do it because we have to do it not because we want to do it. We have to employ our money on good security and keep our capital employed. The profits in our business are so small that we have to keep every dollar employed all the time that we can

in order to pay our expenses and small returns to our stockholders.

Q. What would happen to the note brokers if the banks refused to buy—

A. Their business would be very much smaller and very much fewer note brokers. Their business would be limited to what they could sell to corporations or institutions outside of banks. I have in mind now, for instance: One corporation, on the last statement, had a million and a half dollars of loans, and another a half million, and another a million. They would sell but of course it would be very much smaller with particular customers. Of course you would never get the banks to agree to anything, they couldn't agree to that, and I suppose it would be in restraint of trade if they did.

Q. It is true, however, that the broker depends upon the banks?

A. To a very large extent, yes.

Q. And their business would be negligible if the banks were not to receive—

A. It is a form of competition we cannot stop. We all wish there weren't any note brokers, but we don't know how we can stop them.

Q. Now, in what way do you at your bank feel the competition of real estate loans?

A. Well, anything that takes money is competitive with us, who are loaners of money. In other words, a man if he can't borrow on a real estate loan, why he would come and borrow at the bank on an endorsement, have to borrow his money some way or put up security of some kind, put up the real estate loan, for that matter, borrow of us on real estate.

Q. Isn't this true, that usually the man who borrows money on real estate, the farmer who borrows on his farm, the city man who borrows on his home, can't borrow other-

wise, or if he can, that he has borrowed beyond the banking credit?

A. No. It is often true. I don't think that is always true, Mr. Ryan. Almost all of these people that borrow money get it from relatives who have savings bank books or money, to endorse for them. They very often get it because they don't like to ask any one. That is the only piece of property they have. They don't want to ask anyone to endorse for them.

Q. That assumes that they induce another individual to do something for them?

A. Yes.

Q. But on their own resources, isn't it generally true, as a broad proposition, that the man who loans on farm or residence, is limited to that form of borrowing?

A. Yes, he is practically limited to that or asking some relative to endorse for him. That is why a man mortgages property. That is quite often practically the only collateral that he has; that is true.

Q. And isn't it true that that kind of borrowing is not the kind of borrowing that you get or want?

A. Well, I wouldn't say we didn't want it. We have often discussed taking a moderate amount. We don't carry for customers any substantial amount of real estate mortgages, but we have a saving bank department and we discuss taking a certain amount of mortgages ourselves for that department.

Q. And it is only in that respect, isn't it, that you can say, in any measure, that there is any dealing in farm mortgages, comes in competition with you in any way that you can feel or appreciate?

A. We can feel it. You ought to be in the banking business to appreciate all this competition. We feel competition on anything wherever money is employed, naturally.

Q. I mean aside from that. We assume that every employment of money is in competition with your bank?

A. Yes.

Q. At least as a theoretical proposition.

A. Well, it is an actual proposition. Our bank and every other bank or every other person that loans money, naturally. A man requires no office, no sign except $100, or a thousand dollars or ten thousand dollars, to go into competition with the bank. That is the most liquid thing in the world today.

Q. As a practical proposition, do you think if I went out here on the corner of Fourth and Cedar street and stood there and said I wanted to do business with money, that it would be at all likely that anybody would come up and deposit any money with me?

A. They wouldn't deposit any money, but you could loan all the money you would like to.

Q. And if I loaned money, is it at all likely that you down at the First National Bank would know of my loaning money?

A. We might not as to that one individual, but if you carried that out with 5,000 people, from time to time, as they are doing it all the time, we do feel that competition. We feel it would be slight in the one case; in that case we wouldn't notice it naturally,—like one drop of water would not fill a pail, but you keep on dropping the water in, you will soon fill the pail.

Q. That is about relatively the situation, isn't it, that it is a drop compared to a pailful?

A. A drop to an ounce bottle, and I will change my testimony.

Q. In individual loans of that kind, about the only mortgages that you deal in are those which you acquire in your savings department?

A. Well, we can take twenty-five per cent of our capital,

or one-third of our time deposits. That would be in our case—we will say two million dollars would be the limit that we could loan upon mortgages, under the National Bank Act. We could take up two million dollars in mortgages, that would be the limit that we would be allowed to take. But we could take up to substantially that amount; but a third of our time-deposits are, say, six or seven million dollars.

Q. And isn't it a fact that because of the nature of your business that you would not want to loan money on farm mortgages except to the extent possibly of investing some of your savings bank—

A. That is true. The law provides that. We can take one-third of our time deposits. The law recognizes that it would not be good business for national banks to have their entire assets in real estate mortgages, but a substantial percentage, of say one-third of our time deposits, the law allows us to put into real estate mortgages. We haven't that amount. As a matter of fact, I do not think we have practically any mortgages, but that would be what we could do.

Q. As to those mortgages, you loan your funds and take mortgages as securities, you don't buy and sell mortgages.

A. No, we do not. I think we have occasionally done that, but not to any great extent.

Q. That is not your practice?

A. Well, that is not a large part of our business. We have the right to do that.

Q. Your aim is to secure interest from these deposits, and that means permanency?

A. Our aim is to make all the money we can legitimately without taking any risk.

Q. If you could make a little money in buying and selling mortgages, do you think you would do it?

A. We would do it.

Q. Would you violate the law in doing it?

A. No.

Q. Does the law permit you to deal in mortgages?

A. Certainly. We can buy mortgages and sell a mortgage if we take it.

Q. You could sell the mortgage if occasion arose in your business, but you couldn't indiscriminately buy and sell mortgages, could you?

A. I don't know why not. If we can buy, we could sell, I should think. We can buy and sell securities. We do it right along.

Q. You can buy and sell national bonds. Can you sell other bonds?

A. We do, yes, certainly; why not? We are authorized to invest our—to change the investment, sell one bond and buy another.

Q. Don't you appreciate the difference between what you say is the fact, what I asked about? You say you can invest your funds and you can change your investments, but your objective is keeping your money invested, not in making money in the difference between the buying and selling price of what you invest your funds in. You don't recognize that distinction?

A. No, I do not. I think if I bought a mortgage at eight per cent or six per cent and had an opportunity to take another at eight, that the law would allow me to sell the six per cent and put it in an eight per cent or another one that I could get a better rate of interest on. That is the practice; I think all of the country banks do that. They buy a mortgage on a farm at one rate and sell it to somebody else at another rate. The bank is doing it all the time, both national and state banks.

Q. That is what I mean in dealing in mortgages.

A. Yes.

Q. And it is your impression that the law permits that?

A. I think so.

Q. As a matter of fact, your bank does not engage in dealing in mortgages of that sort?

A. No.

Q. You loan money on real estate security in order that you may place your—

A. I am telling you what we are allowed to do. We do not, as a matter of fact, invest at all in real estate securities.

Q. You get some real estate mortgages. You did have in May, 1921, and you did have in May, 1922.

A. If we did have, it was a very small amount.

Q. If you did have, how did you acquire them, do you know?

A. I couldn't say.

Q. You don't know whether or not you bought them from farm mortgage companies?

A. No, our dealings consist chiefly in loaning to our country correspondents on the mortgages themselves, not in buying the actual mortgage.

Q. That is, you mean that the mortgage is collateral?

A. Collateral.

Q. But those are not mortgages that appear in your statement as mortgages owned by you?

A. No.

Q. When the mortgage comes to you as collateral to secure a note given by a country correspondent, you don't list those mortgages as mortgages held and owned by the bank?

A. No.

Q. I am speaking of those mortgages which in your statement of resources here—can you tell us how you get those mortgages, whether your bank directly loaned money to the farmer and took his mortgage, or whether you, having funds on hand, went to the farm mortgage loan company and bought a mortgage?

A. No, we do not loan on mortgages. We do not do any business with the farmer directly.

Q. Such business as you do in putting out your money on mortgages is done with other banks or with farm mortgage companies as collateral?

A. By loaning on the mortgage as collateral.

Q. That only applies to a certain part of your business, the mortgages which you come into the ownership of.

A. We might possibly have in our loans; that would be very small. Some loans were secured by mortgage; that would be very small. It would appear under our loans, if any.

Q. Now, you say that you occasionally bid for bonds. In 1921 was that true?

A. I couldn't remember whether we did those years or not. It would be very rarely that we would bid—

Q. You wouldn't say that it was an appreciable part of the activities of the bank as a whole?

A. No. If we thought we could get some bonds and make some money, we would bid. Competition is so keen in that line our efforts, without a bonds sales force would be comparatively limited.

Q. Do you know whether that situation, in respect to your bank, is true of other national banks?

A. I do not think that is always true with other national banks. Some of them do run a bonding department and make a regular effort to sell the bonds to customers. We do that in a very limited way.

Q. They buy bonds with a view of selling them at a profit?

A. Well, we all do. If we couldn't sell at a profit we wouldn't buy them. If we didn't think we could sell them at a profit we wouldn't buy them.

Q. Insofar as your statement as introduced here indicates ownership of bonds,—take government bonds on

May 1, 1921, you held government bonds, in round figures, three and a half million. Were these bonds held by you with a view to sale?

A. Yes, we held them, I think, about three and a half million. In 1922 we had eleven or twelve million, I think. We later went up. I think we held at one time over twenty million dollars of government bonds and securities. Today we hold a little over nine million dollars. We employ our money that way and sell them if we think the market is—

Q. Is that the primary purpose of it?

A. The primary purpose is to make money.

Q. I mean make money by selling at a profit?

A. Make money by selling at a profit and getting our interest,—two things.

Q. You don't discriminate between those—

A. We have to take those two things into consideration, because we couldn't hold for interest if we thought the market was going to go down. That would result in a loss; that would wipe out any profit we might have. We have to take both into consideration.

Q. You only mentioned government bonds. There were other bonds which you held in those years as well to a lesser extent?

A. What was that in 1921—about a million and a half, something like that?

Q. Other bonds, stocks and securities, $1,428,272.84.

A. What was it in 1922?

Q. $2,710,730.03.

A. That subsequently changed. If we get a profit we sell them off; we get the money. There are various reasons why we do that.

Q. What stocks were included in those items?

A. I can't think of any stocks now. That is probably just the title. We are not allowed to hold stocks except we take for debt. I can't remember any stock that we have.

If we had anything it might be something we took for debt. I think that applies to the title the government gives to that account.

Q. That would be as true of other national banks as it would be of your bank?

A. They can take a stock for debt or hold stock in a Federal Reserve Bank. We are not authorized to invest in stocks except to take it for a pre-existing debt.

Q. But stocks of any kind, so far as national banks are concerned, are a negligible item in their resources always?

A. Yes. In other words, we can only take it for debt, and, of course, the government will see that they get rid of that stock as soon as they can sell it without sacrifice.

Q. "Other bonds and securities." What type of bonds and securities were those in 1921 and 1922?

A. Well, there would be generally railroad bonds, listed bonds.

Q. Listed bonds?

A. Well, yes. A large proportion would be generally railroad bonds, listed on some exchange where it had an active market.

Q. And usually on what exchange?

A. Usually New York Stock Exchange.

Q. Is it true that you endeavor not to possess bonds or securities that are not listed on any exchange?

A. Well, the desirability of a listed bond is the fact that as a bank we may have our customers call upon us for money, if we have a bond that is actually dealt in, we have something we can readily convert into cash. Speaking of those customers that borrow money of us and get their money from notebrokers, in a case of necessity, we can sell that kind of a bond when we couldn't sell a bond perhaps with a large return.

Q. Is it usually an endeavor to have your funds, so far as they are invested in bonds, invested in listed bonds?

A. In something that we readily convert. That is the purpose of United States government bonds,—one purpose. First, they are secure, and that is something we can readily convert into cash if our customers need the money, and that applies, in a degree, to the other bonds, bonds of a character we can convert into cash.

Q. As to those bonds, government bonds and bonds of the other kind which you have described—listed bonds—the price of those bonds is usually fixed elsewhere than in Minnesota, is it not?

A. Fixed wherever money is, yes, fixed in the price of money. The price of a bond is fixed by two things: first, the security of the bond, which we will assume is a proper security, then the point of all things is fixed by the demand for money. That is one thing. A stock is governed by speculative possibility. A bond has no speculative possibilities except on a narrow margin. The price of a bond is governed entirely, first, security, and, second, by the money market. In other words, in times of stress, the same bond or the same security would not sell for as high a price as it would in times of easy money, when people are seeking employment for their spare money.

Q. Isn't it true that the price at which you must buy, and the price at which you must sell your government bonds is fixed by the New York stock market price?

A. Yes, it is, but we go further than that; it is fixed by the demand for money, by the available supply of money. The price on the Stock Exchange is only a barometer indicative of what that demand is.

Q. That is where the register is?

A. That is where the register is, but it is really fixed all over the country by every little man that is dealing in government bonds, buying or selling.

Q. In respect of government bonds, at least, the whole country is one fluid market—

A. Yes.

Q. —and the level is not affected by what may occur in Minnesota or in Texas?

A. It is what may occur over the country. What may occur in Minnesota might affect other points.

Q. Appreciably? Well, to illustrate: If I stand out on the corner and loan money to people, the price of government bonds isn't going to go down, is it? The price of government bonds are not appreciably affected by loans that people in Ramsey county or Minnesota may make on real estate, or in any other way?

A. I wouldn't say that. Of course, the price of any bond is affected by the demand for money—supply of money.

Q. Appreciably affected?

A. It depends upon the amount. If it was simply a $5,000 mortgage on a piece of property, I don't suppose that would affect the price of government bonds, but if you mortgaged the farms in the state of Minnesota for 200 million dollars, it certainly would affect them.

Q. About how much would the price of government bonds go up or down, say, under those circumstances?

A. Well, it entirely depends on whether I make a profit. I couldn't tell you.

Q. You wouldn't say that any price change would follow?

A. I would say that price change would follow, under the circumstances, if you took 200 million dollars out of the country, I should say it would. You could take the government in its issues of treasury certificates, they have this effect on the price. Let the government put out 200 million dollars worth of securities, you would see the price in securities affected by it.

Q. About how much?

A. I couldn't tell you how much. Talk about even such an intangible thing as a Soldiers' bonus, talk about the

government issuing securities for that, affects the price of government bonds. So when you ask me what affects the price of government bonds, it is pretty difficult to say what would or what wouldn't.

Q. The national banks as to competition are affected as such, if not more, by mere talk of purported Acts of Congress than they are about any moneys or credits in the hands of the Minnesota individual citizen; that would be true, would it not?

A. I don't think so.

Q. Each one affects the situation, doesn't it? One is just as vague and intangible as the other, isn't it?

A. No, sir, it isn't, not in my opinion.

Q. You said that the mere discussion of a Soldiers' bonus might affect the price of government bonds?

A. I didn't say it would affect the price of government bonds; it would affect the competition of banks. That is two different propositions.

Q. Then you do not say that what affects the price of government securities—Does that necessarily come in competition with the bank?

A. It might affect our profit if we had large amounts of government securities.

Q. But you don't consider that mere fact competition?

A. No. The fact that government securities went down, because it made them go up or down, might be competition and it might not.

Q. The mere fact that bonds go up or down, from one cause or another, doesn't indicate competition with national banks?

A. It might or might not, depending upon the reason for them going up or down.

Q. Do you consider that these investment houses in selling the bonds of public service corporations come in competition with national banks?

A. Come in competition in a broad way, that they take money that otherwise would be loaned by us.

Q. Only in that broad way?

A. Well, we buy public service bonds; national banks buy public service bonds; if they sell to somebody else, why they are in competition.

Q. That would be true of railroad bonds, investment houses dealing in any way by buying or selling railroad bonds, would, in a broad way, come in competition with national banks?

A. Yes.

Q. Insurance companies, in loaning large amounts of money on real estate security, come in competition with national banks in the same broad way?

A. In a broad way.

Q. When you speak of the individual who is loaning money, he, too, comes in competition with the national banks in this same broad way that you speak of?

A. Sometimes in a broad way, sometimes in a very direct way. The instance that I quoted, where we had eleven houses that we naturally would loan to, those eleven houses were borrowing substantially a million and a half dollars from individuals instead of the banks. That is a case where it comes in in a very direct way. It might be a broad way or a direct way, a very direct way.

Q. Well, take your customer, depositor, who has borrowed money from his employe, what does he do with it?

A. I didn't get that question.

Q. What does your depositor who borrows money from his employes do with it?

A. We don't go so far as to ask a man what he does with the money that he borrows.

Q. Doesn't he deposit it in your bank?

A. He wouldn't deposit it for any length of time, because otherwise he wouldn't borrow it. He may deposit it

for a few minutes while he paid his bills. If a man borrows money he borrows for some definite thing. He doesn't borrow to deposit in the bank. If he borrowed $5,000 he might put the check in the bank and draw that five thousand in $1,000 checks, or whatever they were, to disburse it.

Q. That is what I am getting at.

A. In that case the bank might even then be at a loss. He might deposit the check on California or San Francisco and it takes us a week or ten days to collect it and his checks come in before that, collect the check that he deposited.

Q. That has come to this point, that when a man loans money to another, that money doesn't go out of existence, does it?

A. No, he loans credit, he doesn't really loan money; he really doesn't actually take the money. That man perhaps as an individual has credit at the bank. He loans this man $5,000 and he gives him a check on his credit, and the man has a credit; he takes the check to some bank somewhere and he has a credit and he disburses it in turn. We very seldom loan the actual money; we call it money.

Q. If you delivered him the actual money, the money would remain in existence?

A. The money would remain in existence.

Q. And the person who procured it would pay it out to others, would he not?

A. Probably.

Q. And those other people would have the same opportunity to get their deposits, as you had the opportunity to get the original deposit, would they not?

A. It would depend upon where they were located. If they were located outside of the city we wouldn't. That locally would be true, this bank or some other bank would.

Q. That is the situation. So that when you say that you are deprived of the money for deposit by these transactions,

it means that you are looking only to your own bank and not to other banks with any of these transactions?

A. No, I wouldn't say that. We have, in order to conduct our business, to maintain an office. We pay taxes, we pay rent, or whatever it might be; we pay clerk hire; we have to maintain an organization. In competition with us the individual maintains no organization. He can loan money very much cheaper than we can. Any man who loans money reduces the opportunity that we have to loan money.

Recess for ten minutes.

Q. Mr. Brown, going through this list of money and credits, the first item, "Money subject to check and on deposit in banks, trust companies, or similar financial institution", that item, in the hands of individuals, does that come in competition with national banks in any way?

A. Will you please read that item again? That certainly wouldn't come in competition with the national bank. No.

Q. Take the second item, "Money on deposit in banks, trust companies, postal and other savings banks, or similar financial institutions, wherever the same are situate, and which is represented by certificates of deposit, cashier's checks, or similar instruments," that item come in competition with national banks?

A. The deposits in postal savings banks, or trust companies, or savings banks would be, in a measure, competitive with the national banks.

Q. Take the item 3, "money, other than above specified on hand or under control of the owner or his agent, whether the same is held in this state or elsewhere"; that come in competition with the national bank?

A. I don't know what that item is.

Q. Money on hand and not on deposit in the bank; we will assume it is.

A. Well, if the loan is on hand, it is not in competition. If he loaned it, it would be.

Q. As it stands, it is not in competition?

A. It is not in competition, but it might be in competition.

Q. Item 4. "Promissory notes, bills of exchange, due bills, cream checks, and similar evidences of indebtedness."

A. That would be in competition with national banks.

Q. Without any qualifications?

A. Yes. Cream checks wouldn't be. Mr. Young testified that the amount was negligible.

Q. How about promissory notes?

A. Promissory notes would be in competition with national banks.

Q. Regardless of what kind of notes they were?

A. Yes.

Q. If I performed services for a client of mine, instead of giving me money he paid me a promissory note, would that be in competition?

A. Yes, because he might borrow that money at the bank and pay you. He is really borrowing of you, whatever the transaction may be. He is borrowing the money from you instead of at the bank.

Q. That is the sense in which you say that the promissory notes—

A. In other words, he owes you a certain amount of money due today, we will say; instead of paying you today he gives you his note. In other words, instead of going to the bank and paying you, he borrows money of you for that period. That is the result of that.

Q. And that, you say, promissory notes are in competition with banks always because they represent the postponed payment of something that is due?

A. Yes, sir. In other words, the payment is due and the man has to make a contract with you to borrow the money from you or borrow from somebody else.

Q. That implies his ability to borrow money at the bank?

A. If he had credit enough to borrow from you, the presumption is he would have enough to borrow from the bank. If you felt well enough to loan him the money you would endorse his note at the bank, which would make it absolutely good, Mr. Ryan.

Q. Then you would put no restriction on that item?

A. No. As I said before, that we are in the business of loaning money. Anyone else who loans money is in competition with us,—can't help being so. If you are selling apples and somebody else sells apples, it doesn't make any difference whether you sell them in a store or an apple car, the other man is selling apples in competition with you. That is the principle that applies. You are selling in competition with the other man. Money and credits are very simple, merely commodities. You can tell where it is and where it goes.

Q. Supposing this man that owed me a thousand dollars had a thousand dollars on deposit in the First National Bank; instead of paying me he gives me his note. Supposing instead of paying me that thousand dollars that he has on deposit in the First National Bank he gave me a note for a thousand dollars?

A. That would indicate that he wanted that thousand dollars for some other purpose. He could just as well borrow it that way and keep his thousand dollars on deposit as he could to borrow from you. He certainly wouldn't borrow from you if he didn't want that thousand dollars for some other purpose. At least I can't conceive it, if he was in his right mind. We don't often have people borrow money who keep a balance on hand. They usually borrow money when they need the money.

Q. Take the item 5, "Bonds." We have covered that, I believe.

A. The same answer would apply there.

Q. And 6, "Mortgages", we have covered that?

A. Yes.

Q. And 7, Mortgages, we have covered that. 8. "Chattel mortgages," and you recall the testimony of the Assessor in that respect, that that item 8, "Chattel mortgages upon personal property in this state or elsewhere", was almost entirely mortgages upon furniture sold by dealers?

A. Yes. I don't know how much of those chattel mortgages are on cattle. Of course we loan very largely on mortgages on cattle. The Cattle Loan Companies are very strongly in competition with us in that way.

Q. But assuming the Assessor's testimony to be correct on that, those chattel mortgages, as indicated here—

A. I think such of those chattel mortgages as are on furniture compete with us only in a broad way. We do not directly take chattel mortgages on furniture, but of course in the sense that they use money, borrow money, that is competition.

Q. Only in that broad sense?

A. Only in that broad sense. We do not take chattel mortgages upon furniture. We do take chattel mortgages upon cattle.

Q. "9. Judgments", of course there would be no competition. Item 10. "Book accounts." Do you consider that money and credits represented by book accounts are in competition with the national banks?

A. Well, it would depend upon how long the book account was allowed to run. The book account might become a loan; it might be carried in that way that it would be competitive with national banks or with anyone who loaned money. In other words, a man might buy goods of another man and the amount would be due in ten days, he would make an arrangement with that man to carry him for six months or three months, or thirty days, in that way it would be a loan and be competitive with anyone who loaned money.

Q. And that would apply to every jobber who sold goods who allowed the book account to run?

A. On long time, yes.

Q. That jobber by so doing comes in competition with the bank?

A. Where he loaned it on long time, because it is practically loaning money. In other words, if he didn't do that his customer would have to go to the bank and borrow money, he would have to go to the other reservoir of credit. The jobber whom he buys goods of, if that reservoir was not open, he would go to some other reservoir, he would mortgage his house or he would go to his bank and borrow the money of his bank instead of getting credit on his accounts. We often have accounts and statements presented to us where a man will borrow comparatively a small sum of his banks but will carry his indebtedness with the people from whom he buys goods, not taking his discount, or have some arrangement where they extend him a credit.

Q. Isn't it true, Mr. Brown, that in some measure, the fact that the jobbers have these book accounts outstanding and unpaid, that because of that fact they are required to come to you and borrow money?

A. Well, the jobbers often will set a man up in business and give him a stock of merchandise, let him pay interest on it, charge him six or eight per cent, whatever it may be. The jobbing house, if a man wants to start in business in some town, will stock him with merchandise and just charge him interest on the amount. In other words, they are loaning him capital. In that way they come in competition with the banks.

Q. When they loan money in that way, they come to you and borrow it, do they not?

A. They get that money. They might loan their own money. They might not be borrowing money at that time, they might loan their own capital. It would be hard to dis-

tinguish what particular money went into that particular investment.

Q. It is not possible, then, to say that book accounts as such represent credits in competition with the bank?

A. It is possible to say that book accounts may represent a large sum in competition with banks. The case I speak of, where a man in business, instead of borrowing of his bank, will carry book accounts. He will get some man he is buying of, that he has dealt with for years, and get his capital that way.

Q. "11. Contracts for the sale of real estate outside of this state."

A. Well, except in a broad way, where they use money, we wouldn't be in competition.

Q. Contracts for the sale of real estate in the state. Of course that would come the same as mortgages, I presume?

A. That would be in competition.

Q. "13. Annuities, royalties, and all sums of money receivable at stated periods."

A. That wouldn't be in competition.

Q. 14. Is a catch-all provision, it might mean anything. "15. Shares of stock in corporations the property of which is not assessed or taxed in this state."

A. That might depend upon the business in which those corporations were engaged. It might or might not be something in competition with us. In other words, if this trust company were an investment house, or bank or trust company, it might be in competition. If it was a railroad company, it would not be.

Q. How about an insurance company?

A. Yes, so far as the loaning of money, the insurance company loaning money, it would be in competition with us.

Q. How about the public service corporation which is borrowing money and issuing bonds?

A. That wouldn't be in competition with us. That would provide a possible customer for us.

Q. When you speak of competition in a broad way, you mean by that the general proposition that every use of money competes with every other use of money?

A. Not every use of money but everyone who loans money. Our particular function is to loan money. A man might use money in ways that was not in competition with us, but if he loaned money, no matter how small money, it would be in a small way competitive with us. But a man might use money to dig an oil well or build a house or do something of that kind, no stretch of the imagination could make that in competition with us, but if he loaned that money to anybody else, it would be in competition with us.

Q. Supposing he withdrew his deposit in your bank, wouldn't he be in competition with the bank?

A. That wouldn't be in competition with us. He would simply take away from us, but if he withdrew that money and loaned it, then he would be in competition with us.

RE-DIRECT EXAMINATION

By Mr. O'Brien:

Q. You were asked about insurance companies. Do you know whether or not it is the practice of all life insurance companies to loan the policy holders money up to the cash surrender value of the policy?

A. They do loan the policy holder, yes.

Q. Is it the practice to make loan securities by the assignment of the life insurance policy up to the cash surrender value?

A. I think those loans are made, yes, sir.

Defendant rests.

E. L. THORNTON.

sworn on behalf of plaintiff, in rebuttal, testified:

By Mr. Ryan:

Q. Mr. Thornton, what is your business?

A. I work in the bank.

Q. With what bank are you now connected?

A. Central Metropolitan Bank.

Q. That is a state bank, is it not?

A. Yes.

Q. And it is the largest state bank in Ramsey county?

A. I believe so.

Q. And you are President of that bank?

A. Yes.

Q. How long have you been President of the bank?

A. About six months.

Q. And prior to that time how long were you connected with it?

A. Since the bank was organized, about six years ago.

Q. And in what capacities were you connected with it prior to your appointment as President?

A. I was either vice-president or chairman of the board of directors.

Q. Were you connected with any other bank prior to that time?

A. I have been connected with the First National Bank at Benson, but not actively.

Q. And what was your connection with that?

A. Vice-president.

Q. And for how long were you vice-president?

A. Oh, twenty years I guess.

Q. You are, by reason of the experience which you have recited, familiar with banking conditions in St. Paul and Ramsey county, are you not, Mr. Thornton?

A. Yes.

Q. I am going to read to you from the classification of money and credits as they are taxed in this county, and ask you in respect to each of them, whether or not, in your judgment, those items in any appreciable or material way come in competition with the business carried on by the national banks of this county, or of the state, and whether or not they come in competition with the investments of shareholders of national banks in this county and state; for instance, item 4, "Promissory notes, bills of exchange, due bills,"—that term "cream checks" is so insignificant that I do not inquire about—Do you know of any way in which those items can be said to appreciably come in competition with the national banks of this city or county?

A. There would be some competition.

Q. Held by individuals?

A. There would be some competition, but my impression is that it would be small.

Q. Item 5, "Bonds, other than United States bonds, State and Municipal bonds." Can you indicate how those bonds in the hands of individuals in this county and state in any way compete with the business of national banks or the investment of shareholders?

A. I think the competition on that classification would be very small, if any.

Q. Item 6. "Real estate mortgages upon lands situate outside of this state."

A. No, I do not believe that would be any competition.

Q. "7. Real estate mortgages on lands in this state which have not been recorded."

A. I think that would be very small. I think most all real estate mortgages are recorded that banks would have anything to do with.

Q. "Item 8, Chattel mortgages upon personal property in this state or elsewhere." Can you point out any way in which chattel mortgages—

A. There would be some competition in that classification, but I also think that would be very small.

Q. Assuming, as the Assessor has testified, that that item as listed in this county represents almost entirely chattel mortgages given by purchasers to household furniture as security for the payment of the purchase price, would you be able to perceive any competition in such a group of chattel mortgages?

A. No. If that is true, I think that the competition would be almost nothing in that classification because they are not loans that a bank could make anyhow.

Q. "9. Judgments." That, of course, does not permit you to say anything about. Take the item 10, "Book accounts." In your judgment, can it be said that book accounts held by corporations or individuals—that means amounts indicated going to individuals and corporations on articles sold, and the like; can you perceive how that item could in any way come in competition with national banks?

A. Well, I think Mr. Brown's statement is correct on that, that if they were carried for long periods of time, upon that understanding it might be in competition with national banks in a small way.

Q. And that would simply be where the account was carried for a long time, and the person who was indebted was one living in this state and who had been credited and could use it if he wanted to in payment of his account?

A. Well, I think if he had book accounts that were standing for long periods of time, that he probably wouldn't be able to borrow money at the bank to pay them anyhow.

Q. Item 11, "Contracts for the sale of real estate outside of this state." That has been passed. Item 12. "Contracts for sale of real estate in this state which have not been recorded."

A. I do not think that would be any competition.

Q. Item 13 we may pass, and 14. "15. Shares of stock in corporations the property of which is not assessed or taxed in this state." Interpreting that as shares of stock in foreign corporations, corporations outside of those organized in the State of Minnesota, can you perceive any way in which that item in the hands of an individual or corporation in this city or county could come in competition with national banks?

A. Certainly not national banks in this state.

Q. What generally is the distinguishable feature of the loans made by banks, either state or national?

A. Well, they are nearly always secured loans or else loans to business concerns that file statements that are acceptable, commercial loans.

Q. Isn't it also true that a major characteristic of bank loans, is that they are short-time loans?

A. Yes.

Q. Usually what?

A. Ninety days.

Q. Ninety days limit?

A. That is generally the outside limit, yes.

Q. Isn't it true, as a general proposition, that the only loans coming in appreciable competition with banks is loans of that character?

A. Well, I do not know any way of telling how many loans are made between individuals, but from the loans that we see in our bank, I do not think that there are many loans made between individuals that would be in competition with the banking business.

Q. From your experience you are able to say, aren't you, that as a rule people do not borrow money from individuals, one individual does not in any appreciable measure, considering the amount of money loaned by banks, borrow money from another individual?

A. I think that is very small.

CROSS-EXAMINATION

By Mr. O'Brien:

Q. Mr. Thornton, how long have you been engaged in the banking business?

A. Six years.

Q. Before you were connected with the Central Metropolitan Bank of this city were you not in the banking business in the western part of the state?

A. No, I was one of the officers of the bank, but I was not active in it.

Q. You belonged to a banking family, then?

A. Yes.

Q. And you were one of the officers of the bank?

A. Yes.

Q. Now, a bank is an institution—we use that term—a bank is an institution dealing in money, is it not?

A. Yes.

Q. And the individuals organizing the bank contribute a portion of their money which makes up the capital of the bank?

A. Yes.

Q. That money in the purchase of the shares of stock gives that bank its capital?

A. Yes.

Q. And different from a corporation organized to manufacture or to buy and sell real estate or buy and sell drygoods or groceries, this institution is devoted to dealing in money?

A. Yes, money and credits.

Q. Money and credits. And therefore it is necessarily in competition with every other individual or corporation or firm also dealing in money?

A. Well, if they are dealing in the class of money and credits that the bank deals in, then they are in competition.

Q. They are in competition with every other firm, individual or corporation also dealing in money, loaning money *for a return?*

A. No, not unless they are dealing in the same class of loans that the banks are dealing in.

Q. Unless they are dealing in the same class?

A. Yes.

Q. Does it make very much difference whether they are dealing in exactly the same class or not?

A. Yes, I think it does make a difference.

Q. Let us imagine a community in which there is a million dollars. If $900,000 of that amount is used for the purchase of bonds, it reduces the amount of available funds for loaning upon promissory notes, does it not?

A. You say if $900,000 is used for a bond?

Q. Used for the purchase of municipal bonds, let us say?

A. Yes.

Q. It reduces the available funds for loaning upon commercial paper?

A. Well, if that money goes out to the community it does.

Q. Whether it goes out of the community or not, there is a million dollars in a community which is available for investment in interest-bearing securities. $900,000 of that is absorbed in municipal bonds. There remains in that community only $100,000 for investment in interest-bearing securities; is that right?

A. Yes, that statement is correct.

Q. It is not the investment of the $900,000 competitive by reducing the amount of available money for interest-bearing investments?

A. I don't believe it is.

Q. You don't think it is?

A. No.

Q. You think it is only the money that is loaned on banking paper that meets competition?

A. If you go on the assumption that the $900,000 goes out of existence when it is invested in bonds, why of course it does reduce the amount that is available for interest-bearing securities.

Q. But it does go out of existence as money available for interest-bearing securities, does it not? It is spent in paying labor.

A. Yes, but that money—

Q. It is spent in paying labor, it is spent in buying supplies.

A. Yes, but the money is earned by people who are furnishing those supplies and the money is all in existence just the same.

Q. But you think the money is still available for interest-bearing securities?

A. Yes, but possibly by different people.

Q. You think that if the city of St. Paul issued its bonds for $100,000 and used that money in buying sewer-pipe and paying labor, that that same money is still ready to be loaned in St. Paul?

A. If it was spent here in St. Paul it would be.

Q. Doesn't it necessarily go into other business, into manufacturing, into dry goods, and into real estate, and into groceries?

A. Yes.

Q. And automobiles?

A. Yes, certainly. It is kept in circulation, but don't become distroyed.

Q. It at once goes into some other form of investment, does it not?

A. Yes, but it is all represented by the same amount of money at the end. It is all represented by the same amount of money and it is still available for further investment.

Q. If it all remains in the same community?

A. Yes.

Q. And so it is still competitive money?

A. Yes.

Q. And it remains in competition?

A. Well, to the same extent that it ever was in competition.

Q. But as long as it remains money and as long as it is available for investment in interest-bearing securities, it is competitive, is it not?

A. You say as long as it remains available for that?

Q. Yes.

A. No, not until it actually is invested.

Q. Eliminating your own dealings in mortgages, is not the money in your bank in competition with the money that is loaned upon mortgage securities?

A. Well, I think that the money loaned by banks on real estate mortgages is very small.

Q. I want you to leave that out of it. Assuming that there was no money loaned by banks upon real estate mortgages, would not the money loaned upon real estate mortgages, still be competing with the banks?

A. No, I do not agree with you on that.

Q. Would you be able to loan money at the banking rates to the same extent that you do now if money could be borrowed on mortgage securities for two per cent in this town?

A. I do not believe that you could get the same rate if you could borrow money on real estate mortgages at two per cent.

Q. Then that competition would force down that rate, would it not?

A. Yes, and it would also reduce the rate that we would have to pay for money.

Q. What do you mean by that?

A. It would reduce the rate of the savings bank account,

the interest that the bank would have to pay, or any other money that we pay interest on.

Q. Is it or is it not a fact that the non-taxable securities which are now upon the market available for investment affect the rate of interest?

A. On bank loans?

Q. On bank loans.

A. No, I don't believe it does. It hasn't been so in the last two or three years. At the time when the greatest amount of bonds that have ever been put out in this country, the bank rates have been the highest.

Q. What is that?

A. At the time when the greatest amount of bonds that have ever been put out in this country, the interest rate in the banks has been the highest.

Q. What was the value of the bonds?

A. The value of them?

Q. Yes.

A. I don't know about that.

Q. Weren't they below par at that time?

A. No.

Q. Weren't the liberty bonds below par at the time that you speak of?

A. I am speaking more particularly about—say three years ago.

Q. That was at the time they were at par.

A. When the interest rate was the highest it has been for several years.

Q. So you don't think that the money which is used for the purchase of bonds, United States bonds, or municipal bonds, tax-exempt bonds, comes in competition with the money that is invested in the banks here?

A. No, I don't think so.

Q. Now, let us assume that you were approached by a man who has 100 thousand dollars to invest, who tells you

that he has an opportunity of investing that money in bank shares; he has also the opportunity of investing that money in real estate mortgages at a certain rate of interest, and he has also the opportunity of investing that money in tax-exempt bonds bearing a certain rate of interest; these offer securities up to the amount of 100 thousand dollars for each of those; are those offers competitive?

A. You mean to the bank itself?

Q. No, to the individual, the man who has the $100,000 to invest.

A. Yes, but do you mean that it comes into competition with the bank itself?

Q. No, I am talking in competition with each other.

A. Yes, I think it would.

Q. You do think they are competitive?

A. Yes.

Q. And his capital invested in either one of those classes of property would be in competition with the other, would it not?

A. I don't see how it would be in competition with the capital of a bank that is already established and has its capital paid in. The fact that a man wants to buy $100,000 worth of bank stock couldn't affect the bank itself, because it has already got its capital paid in. It might affect the shareholders who are holding that bank stock in getting a larger profit for them on the sale of their stock, but I don't see how it could affect the bank itself.

Q. Do you understand that we are assuming a tax upon the bank or a tax upon the share?

A. A share of the tax.

Q. You say that if a man was to use his monied capital in making an investment and he had these three classes before him, they would be competitive?

A. What two classes did you mean?

Q. Well, I gave you the three classes. A man came to

you for advice as to an investment of $100,000; he had an opportunity of buying bank shares, he had an opportunity of buying tax-exempt bonds, he had an opportunity of investing his money in real estate mortgages. Now, would those three classes be in competition with each other?

A. Yes, I think they would.

Q. Now, when you spoke about the various items in the list of money and credits, in the case of bonds, I think, and mortgages, you said the competition was very slight,—did you?

A. Yes.

Q. Were you referring to the amount sold of those investments or were you referring to the character of the investment itself?

A. Well, I was referring to the character of the investment and also to the fact that banks didn't handle a large amount of those investments.

Q. Wouldn't the question as to whether their competition was slight or serious depend upon the amount found in those investments?

A. It would depend upon the amount that the banks handled.

Q. It would depend upon the amount the banks were handling and upon the amount in the item of money and credits returned which you have been referring to?

A. No, I think it would depend almost entirely upon the amount that the banks would handle of that class of investment.

Q. Well, then, you are not speaking of the character of the competition, you are speaking of the amount of the competition, are you not?

A. Well, the amount depends upon the character. The amount of a real estate mortgage that a bank handles depends upon the character of that kind of an investment.

Q. Then you are speaking upon the character of the investment?

A. Yes.

Q. And you think it is very slight?

A. For the amount.

Q. Take up the question of mortgages. You think the competition for mortgages is very slight because of the small dealings of national banks in that security?

A. Yes.

Q. Now, if you ascertained that the aggregate capital of the national banks operating in Minnesota was 37 million, and that the aggregate holdings of the national banks in the state of Minnesota was 25 million mortgages, would you still say that their investments were so slight in that character of securities that the competition was insignificant?

A. No, I wouldn't say it was insignificant. I say that I think it would have a small effect upon the earnings of the bank.

Q. Small effect upon the earnings of the bank. The competition would be slight?

A. Yes.

Q. Would you not consider that a substantial investment by the banks in mortgages?

A. Well, I didn't know that the figures were as large as that. I didn't suppose that they were over twenty-five per cent of the capital of the bank, but even if they are as large an amount as you say, I don't think that they compare to a very great extent with the total amount of their loans.

Q. It is your testimony, with reference to the extent, that competition is based altogether upon your understanding of the amount of money invested in these different classes of securities by banks and by others and not upon the character of the securities themselves?

A. Yes, that is true.

Q. And in looking at the amount in this tabulation, you

have taken the amounts returned in Ramsey county as money and credits?

A. You said I have taken the amount?

Q. Yes.

A. No, I didn't notice the amount.

Q. You didn't notice the amount?

A. No.

Q. But didn't you just say that it was because of the amount that you thought competition was slight?

A. Well, on mortgages I did, yes.

Q. Well, on each of those items doesn't the same principle apply?

A. No, I don't think it does.

Q. Then, on the question of promissory notes, the amount wouldn't make any difference?

A. You mean that the about of promissory notes that have been returned by the tax assessor would be the controlling effect on National Banks?

Q. I understood you to testify that the competition in these different forms of investment, the competition of money outside of banks, invested in these different securities would be slight because of the small amount of investment.

A. Well, I say that as to real estate mortgages.

Q. Well, isn't that true of each one?

A. No, I wouldn't say that that was true of the other ones.

Q. You think that the same principle wouldn't apply to promissory notes?

A. No, not altogether.

Q. Or to book accounts?

A. No.

Q. Or to bonds?

A. No.

Q. Why?

A. Because I don't think it would make any difference how much of book accounts were returned to the assessor, I don't think that would make any difference to a bank in making its loans.

Q. A book account is a credit, is it not?

A. Yes.

Q. Did you not say that you agreed with Mr. Brown's testimony in that respect as to book accounts might come into competition?

A. Might be some competition.

Q. Wouldn't the amount have an effect upon that?

A. No.

Q. The amount wouldn't have any effect. How about promissory notes?

A. I don't think promissory notes would have much effect, because I don' think that they are notes that banks would use anyhow.

Q. Do you know anything about that?

A. Only from the notes that we see in our business.

Q. The notes that you see in your business?

A. Yes.

Q. Well, do you say the promissory notes that are included in this item No. 4 of money and credits—

A. No, I don't.

Q. You don't know what the character of those promissory notes is?

A. Well, I don't know of the character of all of them. I know the character of notes that would be in that classification, because I have seen a good many of them.

Q. Those promissory notes represent, in great part, money loaned, do they not?

A. No; I think that a very small part of them are loans.

Q. If they should represent money loaned, they would be in the same class as mortgage securities?

A. Well, it would make a difference all right. There would be more competition if they represented money actually loaned.

RE-DIRECT EXAMINATION

By Mr. Ryan:

Q. Judge O'Brien put a hypothetical question to you involving the suggestion that money might be loaned on real estate mortgages at the rate of two per cent, and you answered that theoretically one way, but would an answer given in response to the assumption of a real estate mortgage of two per cent ever be likely to be of any practical value in dealing with actual conditions as they exist now and have existed for a long time past?

A. No, I don't think so.

Q. Now, Judge O'Brien put this hypothesis to you, that an individual approached you with $100,000 to invest, and that he also suggested the investment of that in bank shares, or in mortgages or in tax-exempt securities, and he inquired whether or not those things would not, under such circumstances, be in competition, and you said that that would bring them in competition.

A. In competition with each other.

Q. And if he added the proposal to buy real estate for $100,000 or to buy railroad stock for $100,000, or to buy stock in a factory, they would all then come in competition with each other in the same sense that you answered his question, would they not?

A. Yes.

RE-CROSS EXAMINATION.

By Mr. O'Brien:

Q. When you bring into competition shares of stock in

a manufacturing establishment, or shares of stock in a mercantile company, you are introducing a different class of property, are you not?

A. Well, I understood him to mean investments in all property.

Q. But an investment in something besides money or securities in which an interest is to be returned on money. You don't know, of course, whether it was classification between money used for the purpose of making money by a return upon money in the shape of interest and property upon which the investment was money for manufacturing or dealing in other business?

A. Well, there would be a difference in those, of course.

Q. My question was confined to investments in which money was dealt in. Mr. Ryan's amendment of that brought in a class of business in which it was not dealing in money, but dealing in manufacturing or real estate or something else; isn't that true?

A. Well, there is some difference.

Mr. O'Brien: There is a good deal of difference in law. That is all.

By Mr. Ryan:

Q. From the investor's standpoint, is there any difference between an investment in bank shares and investment in any other shares?

A. No; from the investor's standpoint, there wouldn't be any difference.

Q. And it is true that when capital is furnished for the banking business, it is not the expectation of the corporation to confine itself to the use of that capital by investing that capital only in interest-bearing securities, is it not? The fact is that the purpose it to attact to that institution loanable funds to an amount usually running twenty times the original capital; is not that characteristic of an investment in banking shares?

A. That is the effect that we try to bring about.

Q. And isn't that really the distinctive features of the banking business, the purpose, to attract to the corporation the money of others so that the corporation may have available to invest in interest-bearing loans or securities the money of others?

A. Yes.

Court here adjourned until Thursday morning, October 25th.

HENRY B. BACON,

recalled on behalf of plaintiff, in rebuttal, testified:

By Mr. Ryan:

Q. Mr. Bacon, you said you were the chief clerk of the Tax Commission?

A. Yes.

Q. And you have been such for how many years?

A. Fourteen years.

Q. And as such chief clerk you are familiar with the records and statistics of the Tax Commission?

A. Yes.

Q. Do you have special personal charge of the returns or reports relating to the taxation of banks?

A. Yes, I have charge of receiving the reports and examining the reports from all banks within the state.

Q. Can you tell us how the state banks were taxed in the year 1921?

Objected to as immaterial.

The Court: We will receive it subject to that objection.

A. They were taxed upon the amount of their capital stock. The practice is to take the amount of the capital stock, the amount of the surplus, the amount of undivided profits and other funds, and subtract from the total the amount invested in real estate, and take 40 per cent of the

balance or remainder as the amount for which it should be assessed.

Q. Now, are you able to say whether or not any state bank in 1921, in reporting for taxation, made any deduction from the items which you have given on account of bonds held by any such bank?

Same objection.

Received subject to objection.

A. There were no such deductions, so far as I have any knowledge. I have examined every report?

Q. You say you have examined every report?

A. I examine every report that comes to my desk.

Q. And there were no such deductions?

The Court: All this testimony will be taken subject to the objection.

Q. There were no such deductions by any bank?

A. None.

Q. And you know, do you not, that the assessment was made for 1921 everywhere against state banks upon that basis?

A. That is correct.

Q. Now, for the year 1922 was the assessment made in the same way?

A. Exactly in the same way.

Q. Did any state bank in 1922 claim any deduction on account of any bonds held by the bank?

A. I don't believe that there was.

Q. You believe that the assessments were made upon the same basis in 1922 as they were in 1921?

A. Exactly.

Q. Do you know whether or not any state bank in 1921 or 1922, claimed any deduction on account of the fact that a shareholder or shareholders, as a charitable institution, was entitled to a deduction?

A. No, there were none.

Q. You know of none?

A. I know of none.

Q. In 1922?

A. Either.

Q. Would that detail come to your attention?

A. Yes, it would come to my attention if it were made.

Q. Let me ask you specifically; do you recall the tax statement of the Merchants Trust & Savings Bank?

A. Yes.

Q. I will ask you whether or not that particular institution did not deduct?

A. If that is a state institution, that is one that did deduct.

Q. And what was that deduction?

A. For shares held by the Wilder Charities.

Q. And that deduction was made upon its report?

A. Yes.

Q. And in the assessment the deduction was allowed, was it not?

A. Yes.

Q. So that, summarizing the situation, it is true, is it not, that the taxes against state banks were levied and assessed and dealt with in 1921 and 1922 in exactly the same manner as they were during the immediately prior years?

A. Correct.

Q. Are you familiar with the instructions issued by the Tax Commission to assessing officers in respect to the manner in which bank shares, including the shares of property of the state banks, were to be assessed by them?

A. Yes.

Q. In what form are those instructions issued?

A. Why, some reference would be made in letters, which we call instructions to assessors. I didn't refresh my memory as to just what was done in 1921 or 1922 with reference to shares of bank stock, but the Tax Commission have held

meetings in every county of the state, and at every meeting they would give them specific instructions as to how to assess shares of bank stock, just quoting the law and giving them instructions.

Q. Now, the Tax Commission, in the instruction of the assessors, prepares or causes to be prepared an assessor's manual, does it not?

A. Yes, sir.

Q. By means of which they endeavor to instruct the assessors in their duties?

A. Yes, sir.

Q. And in 1921 and 1922 such manuals were prepared and were issued to all assessors, were they not?

A. They were given to all assessors.

Q. I show you State's Ex, 2 and ask you whether or not that is a copy of the assessor's manual to which you have referred, and whether or not the material on pages 42, 43, 44, 45 and 46 contains all the instructions issued in that manual to assessors concerning the taxation of shares or capital of state or national banks, private bankers and trust companies.

A. That is correct.

Q. Showing you State's Ex. 3, pages 44, 45, 46, 47 and 48, I will ask you whether or not that is a manual for the year 1922, and those pages indicated, whether or not they contain all of the instructions issued to assessors by the Tax Commission governing the assessment of the shares or property of state or national banks.

A. It is, yes, for 1922.

Q. Do you know of any other written instructions issued by the Tax Commission to assessors bearing upon that same subject?

A. I don't know whether there was anything contained in the written letter of instructions to assessors or not for

that year, but this at least would contain all that would be contained in the letters.

Q. You don't know of anything contained in those letters. If, on examining them, you find that there is, will you supply them for the record?

A. I will, yes.

Q. State's Exs. 2 and 3, with reference to the pages given, introduced in evidence without objection on the ground of incompetency, but objected to as being immaterial.

Received subject to the objection.

Mr. Ryan: In connection with Mr. Bacon's testimony, I desire to offer in evidence, as State's Ex. 4, the report of the Minnesota Tax Commission for the year 1910, chapter 17, pages 170 to 195, and paragraph 9 of chapter 24 (page 305) of that report, being a discussion of the matter of the desirability or lack of desirability of substituting a money and credits tax for the existing system of taxation, followed by a recommendation to the Legislature that a money and credit tax bill be so proposed and enacted.

Objected to as argumentative and incompetent, and immaterial.

Received subject to objection.

Q. Now, I show you State's Ex. 5, a statement of the amount of assessments and taxes levied on money and credits for the years 1907 to 1923, inclusive, and ask you whether or not that exhibit was prepared by you from the records of your department?

A. It was.

Q. Now, for the year 1907 to 1910, inclusive, money and credits were not assessed as money and credits, as they are now and have been since that date, are they?

A. They were not.

Q. How were you able to ascertain the amount of the assessment equivalent to the assessment after that date upon money and credits as they have been since listed?

A. I added up the different items of personal property which relate to money and credits and which were money and credits and took that as the basis.

Q. Prior to 1911, then, the personal property general tax list was so itemized that you could extract from it the items which now go upon the separate money and credits list?

A. Approximately, yes.

Q. How were you able to ascertain the tax rate for the years 1907 to 1910?

A. I took the general average tax rate of the state for that particular year.

Q. So that the tax rate is not the actual rate, that is, you didn't go into every taxing district in the state and apply its tax rate to the money and credits that you found listed there, but that you arrived at it by an approximation?

A. Yes; it was the average tax rate for the state applied to the total assessment of money and credits returned.

Q. How did you calculate your average tax rate?

A. By dividing the amount of the assessment of all property and the amount of tax—the total amount of tax.

Q. Do you believe that the results that you have arrived at in those items are approximately correct?

A. They are.

Q. Can you form an estimate as to how much they might at the most vary from the exact figures, if you have been able to get that?

A. Not more than one mill, I don't believe.

Q. And as to the figures from 1910 to 1923, inclusive, both as to the number assessed, the amount of assessment, the rate and the amount of tax, those figures are the exact figures, are they not?

A. 1911 to 1923, are, yes, except as to 1923. That is made up now under the terms of the County Auditor and is not entirely complete for the reason that the Tax Com-

mission are now still making re-assessments of money and credits for 1923 which will somewhat increase that sum.

Q. But the increase will be relatively small?

A. Yes.

Q. Considering the total?

A. Very small.

Q. Can you indicate the percentage, the amount of the tax which as a limit it will be increased by?

A. Not more than perhaps two and a half million dollars of an increase.

Q. That is two and a half million in the amount of the assessment?

A. Increase the amount of the assessment probably two and a half million dollars.

Q. Now, below that on the exhibit, we find similar figures for Ramsey county.

A. Ramsey county, yes.

Q. Now, as to Ramsey county, as to the figures there, the years 1907 to 1910 inclusive, are gotten in the same way, by that same method that you used throughout the state?

A. Yes.

Q. But the tax rate there is exact, is it not?

A. Both tax rate and assessment.

Q. And No. 11, on the numbers assessed, the amount of the assessment, the rate and the amount of tax are all exact?

A. Yes, they are.

State's Ex. 5 introduced in evidence without objection.

Q. I show you State's Ex. 6. That purports to be a "statement showing the total amount of general property tax levies in Ramsey county for the years 1907 to 1922, inclusive, the amount of taxes levied on"—you had personal property—changed it to read "share of national banks in said county during the same period and percentages that the amount of such personal property tax on said national

bank bears to the whole for each of said years." That exhibit was prepared by you?

A. Yes, it was.

Q. It is just what it purports to be, and is correct?

A. That is correct.

State's Ex. 6 introduced in evidence without objection.

Q. I show you State's Ex. 7, purporting to be a "Statement of amount of state taxes for the years 1907 to 1922, both inclusive, from all sources, together with amount of state taxes paid by national and state banks for the same period, and percentages the amounts paid by banks bear to the whole for each year." That statement was prepared by you from your records?

A. Yes it was prepared by me.

Q. And you believe it to be correct, do you not?

A. I believe that is correct.

State's Ex. 7 introduced in evidence without objection.

Q. Do you know what national banks in the state failed to pay their taxes for the year 1921?

A. The First National Bank of St. Paul and the First National Bank of St. Cloud, First National Bank of Browerville, First National Bank of Eagle Bend.

Q. Can you give us the same information for the taxes for the year 1922?

A. No, I can't.

Q. Do you know about what banks—

A. No, I don't know. I wouldn't be able to say what banks failed to pay their taxes for 1922, that is, national banks.

Q. Prior to 1921 all national banks habitually and usually paid the taxes assessed against them in the manner which you have described?

A. Yes, they did.

Q. The national banks didn't oppose the tax during the years 1911 or the subsequent years?

A. Not so far as I know.

CROSS-EXAMINATION.

By Mr. O'Brien:

Q. You were with the Commission at the time the report for 1910 was issued?

A. Yes, sir.

Q. And assisted in the preparation of that report?

A. Well, in the same manner, yes.

Q. And assisted in the preparation of Chap. 17 of that report which has been offered in evidence here?

A. Not insofar as the writing of the text is concerned. I might have furnished some statistics, but further than that—

Q. You furnished statistics?

A. I might.

Q. Now, prior to the time at which this report was issued, the report of 1910, the property which we have designated, money and credits in this case, and which is included within the items found in the exhibits, for instance, Ex. 8 segregating that property, was taxed as personal property at whatever the full rate was upon personal property?

A. Yes, it was.

Q. And it consisted of what I notice has been called intangible property. You consider the debts, whether evidenced by promissory notes, or by entries in books, or by any other means, is intangible property?

A. Certainly is.

Q. And shares of stock in corporations coming under the same classification?

A. Shares of stock in corporations—shares of stock of

property which is not assessed or taxed in this state has been made—

Q. Whether it is assessed or taxed in this—

A. Intangible property.

Q. It hasn't changed its character as to tangible property?

A. No.

Q. I am speaking of what you consider intangible property. Money is hardly classed as intangible property, but is in a class by itself, is it not?

A. Yes, sir.

Q. So, when the term "money and credits" is used, it includes all actual money, all demands for money, does it not?

A. It does.

Q. And all investments in the stock corporations?

A. Yes, that is true.

Q. And that class of property being much more easily concealed than such property as cattle, horses or wagons or household furniture, escape taxation?

A. Very largely.

Q. To a great extent. And the object of the Tax Commission of this state in recommending a classification by itself of money and credits and placing a three-mill tax upon that property was for the purpose of putting it upon the assessment rolls?

A. Yes, that was it.

Q. And in that your efforts have been very successful?

A. Very much more so than it was prior to 1911.

Q. In the twelve years that have passed since this law has been enacted, the amount of property of that class and character reached for taxation has gone up from how much?

A. In 1910, the last year it was assessed under the general property system, it was $13,919,806. The peak year was in 1920 when we had $443,092,869.

Q. And so it may be said that the efforts of the Commission have been entirely successful or quite successful.

A. Quite successful, yes.

Q. Do you know of any class of monied capital, not included in the shares of state or national banks, which does not come under the classification of money and credits in the state of Minnesota?

A. You mean trust companies?

Q. No, I don't mean that. I mean just what I said. Do you know of any class or kind of monied capital, not included in shares of stock of banks, which does not come under the designation of money and credits?

A. No, I do not.

The Court: How about Minnesota mortgages?

Mr. O'Brien: May it please the Court, I claim that Minnesota mortgages come within that classification but that because of the registry tax they are exempt from taxation.

Q. So that the result of the efforts of the Tax Commission and the result of the amendment of the law placing a tax upon money and credits has been to include in that classification all of the monied capital that you can think of and has increased the amount of that property for taxation from 13 million, in round numbers, to 443 million?

A. That is true.

Q. Mr. Bacon, I show you State's Ex. 2, being the Assessor's manual for the year 1921, and call your attention to page 42. Do you know the date at which that manual was prepared?

A. This 1921 manual I think was prepared in the years 1920 and 1921.

Q. Was it prepared before or after April 21, 1921?

A. I believe that perhaps there might have been some of it in 1921. It was necessarily made up before that time.

Q. So that it was made up and printed prior to the passage of Chap. 416, Laws 1921?

A. It was.

Q. It does not refer in any place to Chap, 416, Laws 1921?

A. It does not.

Q. It naturally couldn't. And the section of the statute cited upon page 42 as a guidance to the county and city and local assessors with reference to the taxation of stock in banks was the old law and not the law that was actually in force after April 21, 1921?

A. Yes, this was under the old law.

Q. And I understand you to say that the local assessors followed this manual?

A. We have manuals now for 1922 and 1923. We have the 1923 manual.

Q. You couldn't put in your manual a law that hadn't been passed at the time you prepared it, but what I want to know is, you say that the taxing authorities of the state of Minnesota in the year 1921 followed this manual?

A. That was the instruction.

Q. So far as you know, they did follow it?

A. I do.

Q. You just testified that the state banks paid the taxes as directed in this manual?

A. They did.

Q. That manual didn't state the law as it was on that date?

A. It stated the law as it was at the time it was put into effect.

A. Yes, but not as it was after the 21st of April, 1921; isn't that so?

No answer.

Q. (State's Ex. 7 shown witness.) I notice the legend upon that table is "Statement of amount of state taxes for

the years 1907 to 1922, both inclusive,'' and so on. Does that mean that the taxes which you have shown here are only the levy for state purposes.

A. Taxes collected by the State, yes.

Q. For the State itself?

A. Yes, for the State.

Q. It doesn't include county, township, village—

A. It doesn't.

Q. —or city tax or school taxes?

A. Except as to what they call a general state school tax. It is a state tax, however.

Plaintiff rests.

CYRUS P. BROWN,

recalled on behalf of defendant, in sur-rebuttal, testified:

By Mr. O'Brien:

Q. Mr. Brown, I omitted to ask you to what extent the First National Bank of St. Paul does business in the state of Minnesota outside of the City of St. Paul and Ramsey county.

A. Very largely over the entire state.

Q. As a matter of fact, it does business outside of the state of Minnesota, does it not?

A. Yes.

Q. It loans money outside, but you have a considerable line of loans outside of the city of St. Paul and the County of Ramsey?

A. Yes, very, very large.

Q. In the state of Minnesota?

A. In the state of Minnesota.

CROSS-EXAMINATION.

By Mr. Ryan:

Q. How are such loans made?

A. They are made direct to the borrower in cases of merchants or manufacturers. In other cities of the state they are made to local banks, often through local banks, but we make them direct to the borrower.

Q. What would you say as to your loans to individuals outside of Ramsey county directly to individuals amounted to on May 1, 1921?

A. I couldn't tell you that.

Q. I mean in round figures or roughly so as to give us an idea relatively as to what their proportion to your—

A. To our total loans? In 1921 it would be many, many million dollars.

Q. To individuals outside of the county?

A. To individual firms, yes.

Q. Who had made direct application?

A. Direct application to us. For instance, we loan in Duluth alone many million dollars. We loan in Hennepin county, Minneapolis, many million dollars; we loan throughout the state in lesser degree in the smaller places to local merchants or manufacturers.

Q. The local merchant comes to St. Paul—

A. Absolutely.

A. —and applies to you for a loan?

A. Absolutely. For instance, a small place, the Eagle Roller Mills, New Ulm, they came to us direct and we gave them a line of credit for several hundred thousand dollars. Take the Duluth firms. Take practically every large firm in the state located in a small place, which hasn't sufficient banking accommodations of its own to carry on its business, it of necessity has to come to the larger centers to borrow money.

Q. You say that amounts to several million dollars as of May 1, 1921, or any other given year?

A. Yes. I can't give you the exact amount. If we would loan to A. D. Thompson of Duluth we would loan them a million dollars at a time, and others, as of May 1st. It is a time that the shipping is opening up at the Lake, and finance their trade. The Consolidated Elevator Company, half a million dollars in Duluth, and many—

Q. Take those Duluth people whom you point to, are your relations with them entirely independent of any Duluth bank?

A. Absolutely. They carry balances with us and the paper doesn't go in any way, directly or indirectly, through a Duluth bank—Kelly, Hoy & Thompson of Duluth.

Q. They do carry local deposits?

A. They carry local deposits, and in Duluth they have a line there. They carry a local deposit with us, and they carry in Chicago and New York just the same as our local jobbers.

Defendant rests.

Testimony closed.

Case to be submitted on briefs.

(Title of Cause.)

FINDINGS OF FACT.

These causes came on for hearing on the 22nd day of October, 1923, H. H. Peterson, County Attorney, Rollin L. Smith and Patrick J. Ryan appeared for the plaintiff, and O'Brien, Horn & Stringer appeared for the defendant, The First National Bank of St. Paul, Minnesota.

Upon due consideration of the testimony, the admissions of the parties, and the arguments of counsel, the Court finds as Facts:

1. The defendant is and during the times named in the

answers has been a national banking association duly organized and existing under and pursuant to the national banking laws of the United States of America, and having its principal office in the City of St. Paul, in the County of Ramsey, State of Minnesota.

2. As such corporation said bank is an instrumentality of the United States of America, and there can be no taxation of the defendant, or its property or the shares of its capital stock by or under the authority of the State of Minnesota, or any political subdivision thereof, otherwise than in conformity with the terms and restrictions embodied in the assent given by Congress, as set forth in Section 5219, Revised Statutes of the United States, reading as follows:

> "Nothing herein shall prevent all the shares in any association from being included in the valuation of the personal property of the owner or holder of such shares, in assessing taxes imposed by authority of the State within which the Association is located; but the legislature of each state may determine and direct the manner and place of taxing all the shares of national banking associations located within the state, subject only to two restrictions, that the taxation shall not be at a greater rate than is assessed upon other monied capital in the hands of individual citizens of such state, and that the shares of any national banking association owned by non-residents of any state shall be taxed in such city or town where the bank is located, and not elsewhere. Nothing herein shall be construed to exempt real property of associations from either state, county or municipal taxes to the same extent, according to its value, as other real property is taxed."

3. The value of the shares of stock of banks in the State of Minnesota organized under the national banking laws of the United States and the value of the moneyed capital of

state banks and mortgage loan companies organized under the laws of Minnesota, for the years 1921 and 1922, was determined pursuant to the provisions of Chapter 416, laws of 1921, and the unrepealed parts of Acts existing at the time of the enactment of the 1921 law. The taxing authorities, in determining the valuation of all such banks and companies for the years 1921 and 1922, applied the method theretofore applied for some years immediately prior to such determination which was the method provided by Sections 2017 and 2018, G. S. 1913; that is, the valuation was determined by taking the amount of the capital stock, the amount of the surplus, the amount of undivided profits and other funds, and subtracting therefrom the amount of legally authorized investments in real estate, and forty (40) per cent of the balance or remainder, was taken as the basis for valuation and the amount to be assessed, and no deduction was claimed or made on account of bonds held by any such bank.

4. The full and true value of the shares of the capital stock of the defendant for the year 1921, as so determined, after deducting real estate, was $6,002,218.01, and said shares were assessed at forty (40) per cent of such full and true value, being $2,400,887.20, which was taxed at a rate of 67 mills, and the amount levied as taxes was $160,859.54. The full and true value of the shares of the capital stock of the defendant for the year 1922, as so determined, after deducting real estate, was $6,528,104.06, and said shares were assessed at forty (40) per cent of such full and true value, being $2,611,240, which was taxed at a rate of 61½ mills and the amount levied as taxes was $160,591.26.

5. "Money" and "credits" as defined by Section 798 Revised Laws 1905 (now Section 2316, General Statutes, 1913) were returned and assessed for the years 1921 and 1922 for the State of Minnesota, and for the County of Ramsey, as follows:

STATE

1921	1922
$422,745,839	$400,688,948

COUNTY

$83,965,268	$87,796,840

Such money and credits are exempted from taxation other than three mills of the fair value thereof without deduction of debts from credits listed for taxation. Such return and assessment did not include money or credits belonging to incorporated banks situated in this state nor any indebtedness on which tax is paid under Sections 2301 to 2309, General Statutes 1913, nor bonds exempt by law.

6. The total amount of such money and credits as listed and assessed in the City of St. Paul, in the County of Ramsey, in the years 1921 and 1922 by corporations and individuals in cases where the return exceeded Four Thousand Dollars ($4,000), was as follows:

	1921	1922
Corporations	$51,464,497	$48,839,758
Individuals	25,170,614	27,825,885
Total	$76,635,111	$76,665,643

the same being approximately 91 per cent of the total amount returned and listed as money and credits in the years 1921 and 1922.

7. No material or substantial portion of the money and credits so listed and assessed consisted of moneyed capital in the hands of individual citizens of this state coming into competition with that of national banks or causing any inequality or discrimination in taxation as against national banks or their shareholders generally. A comparative statement showing the condition of the defendant on the first day of May, 1921, and on the first day of May, 1922, is as follows:

COMPARATIVE STATEMENT SHOWING CONDITION OF THE FIRST NATIONAL BANK OF ST. PAUL, MAY 1, 1921, AND MAY 1, 1922,

RESOURCES	May 1, 1921.	May 1, 1922.
Loans and Discounts	$30,459,384.24	$26,489,898.41
Overdrafts	8,007.80	2,709.96
Customer's Liability Account of Acceptances	....	....
U. S. Government Securities Owned	3,453,665.06	11,343,234.95
Other Bonds, Stocks and Securities	1,428,272.84	2,710,730.03
Banking House Furniture and Fixtures	556,199.42	533,606.46
Other Real Estate Owned	....	....
Lawful Reserve with Federal Reserve Bank	2,118,449.30	2,786,649.41
Items with Federal Reserve Bank for Collection	848,206.55	426,459.97
Cash and Amount Due from National Banks	4,777,046.45	5,828,689.21
Amount Due from State Banks & Trust Companies	1,691,372.73	2,177,737.15
Exchanges for Clearing House	627,612.48	524,821.58
Checks on Other Banks in Same Place	192,384.40	187,943.62
Outside Checks and Cash Items	384,768.82	375,887.25
Redemption Fund	....	....
Other Assets	26,375.12	72,762.34
Total Resources	$46,571,745.21	$53,461,130.34
LIABILITIES		
Capital Stock Paid in	$3,000,000.00	$3,000,000.00
Surplus	2,000,000.00	2,000,000.00
Undivided Profits, less Expenses; Int. and taxes.	1,371,847.48	1,394,585.04

National Bank Notes Outstanding	....	....
Amount Due Federal Reserve Bank	....	....
Amount Due National Banks	4,379,197.01	5,311,484.91
Amount Due State Banks, Bankers & Trust Cos.	4,127,603.59	4,954,331.39
Certified Checks Outstanding	44,000.86	27,591.07
Cashier Checks Outstanding	182,771.71	188,650.54
Demand Deposits	21,039,275.61	28,547,905.22
Time Deposits	5,635,010.50	5,683,908.56
U. S. Deposits	1,386,419.16	1,606,680.56
U. S. Bonds Borrowed	2,693,500.00	....
Other Bonds and Securities Borrowed	....	....
Bills Payable and Rediscounts	....	....
Letters of Credit and Travelers Checks issued for cash	....	....
Acceptances Executed for Customers	....	....
Acceptances Executed by other Banks	....	....
Other Liabilities	712,119.29	745,993.05
Total Liabilities	$46,571,745.21	$53,461,130.34
Total Capital Surplus & Undivided Profits	6,371,847.48	6,394,585.04
Total Banking House Furniture and Fixtures	556.199.42	533,606.46
Total U. S. Bonds and Securities	3,453,665.06	11,343,234.95
Total other Bonds, Stocks & Securities	1,428,272.84	2,710,730.03
Total Deposits	36,794,278.44	46,320,652.25

8. The Northwestern Trust Company is engaged in the usual business of a trust company, including, among other things, the performance of lawful trusts, and the investment of funds in bonds and mortgages. At the times in controversy the Merchants Trust & Savings Bank, the Capital Trust & Savings Bank, both of St. Paul, Minnesota, and The Minnesota Loan & Trust Company, of Minneapolis, Minnesota, were engaged in business of the same general character as that of said Northwestern Trust Company. In addition, each of the three corporations last named conducted a savings bank department.

On the first day of May, 1921, the capital of The Northwestern Trust Company was $1,000,000 and its surplus and undivided profits on May 1, 1921, and May 1, 1922, were $380,000. At the same times, the capital of Minnesota Loan & Trust Company was $1,000,000; its surplus, $1,000,000, and its undivided profits between $300,000 and $400,000. The capital of Merchants Trust & Savings Bank is $500,000.

The Northwestern Trust Company is affiliated with the defendant and its ownership and that of the defendant is practically the same.

The Minnesota Loan & Trust Company is owned and controlled by and affiliated with The Northwestern National Bank of Minneapolis, Minnesota.

The Merchants Trust & Savings Bank is owned and controlled by and affiliated with the Merchants National Bank, of St. Paul, Minnesota.

The Capital Trust & Savings Bank was affiliated and operated in close harmony with the Capital National Bank of St. Paul, Minnesota.

Wells-Dickey Company (an investment company) and Wells-Dickey Trust Company, (a banking company) are affiliated Minnesota corporations having their principal place of business in Minneapolis, Minnesota.

The money under the control or in charge of the said trust

companies, aggregating a very large sum, is invested, to a very material extent, in bonds and mortgages. The stockholders of these companies are generally citizens of Minnesota. All of the said trust companies are operated as adjuncts of their affiliated banks and as aids to the business of such banks.

9. In addition to money borrowed by them from banks, commercial houses in the State of Minnesota in the years 1921 and 1922 borrowed money through brokers, the amount being estimated as in excess of $40,000,000 per year. Ordinarily, such loans were obtained by the broker from banks throughout the country and usually the interest of the broker was his brokerage fee. The money so borrowed, to a very large extent, was paid by the borrower to the banks, and only a small percentage was paid to individuals. No considerable portion of such loans were made by brokers having their places of business within the County of Ramsey, a very great part of such loans having been procured from brokers in business in the eastern portion of the United States.

It does not appear that any such brokers who were individual citizens of Ramsey County employed capital in substantial amounts in their business nor does it appear that their capital was taxed at a lower rate than that applied to shares of national banks. In a large degree the competition represented by the broker was competition coming through him from the banks and reflects the competition of banks between each other. They are not competitive with the business of national banks in any substantial degree and in general are in aid of the banking business.

10. In the assessment of the value of the shares of capital stock of the defendant and the taxation thereof, no discrimination was made in favor of competing moneyed capital in the hands of individual citizens or in favor of other

moneyed corporations, and no injustice or unequal burden was inflicted or cast on the defendant.

11. The law of Minnesota relating to such assessment and taxation is neither unequal nor unfair as to national banks or their shareholders and does not permit discrimination in favor of competing moneyed capital in the hands of individual citizens or in favor of state banks or other competing institutions. The assessment of value and levy of tax upon the shares of stock of the stockholders of the defendant as made for the years 1921 and 1922 are in accordance with the provisions of Section 5219, Revised Statutes of the United States, and are valid.

As CONCLUSIONS OF LAW, the Court finds that the State is entitled to judgment against the defendant for the amount claimed as taxes for the years 1921 and 1922, as above recited, together with interest, penalties and costs as provided by law, and the costs and disbursements of this proceeding.

Let judgment be entered accordingly.

Proceedings stayed forty days.

Dated September 11, 1924.

CHARLES BECHHOEFER,
District Judge.

MEMORANDUM.

(As Amended.)

I.

This proceeding involves the construction and application of Section 5219, Revised Statutes, U. S., relating to the taxation by the State of the shares of national banks. The defendant claims that the tax as levied is void for the reason

that there has been an illegal discrimination against the shares of stock in the defendant bank in contravention of the Federal Act.

The Act providing for the organization of national banks passed February 25, 1863, (12 Stat. 665), contained no provision concerning state taxation of the shares of national banks. This Act materially amended was re-enacted on June 3, 1864, (13 Stat. L. 111). State taxation of the real estate held by national banking associations, and of the interest of the private citizens in the shares of such associations was authorized by three provisos to the 41st section of the Act, which prescribed the measure and rule of state taxation. These provisos are as follows:

(1) "Provided, that nothing in this act shall be construed to prevent all the shares in any of said associations, held by any person or body corporate, from being included in the valuation of the personal property of such person or corporation in the assessment of taxes imposed by or under state authority, at the place where such bank is located, and not elsewhere, but not at a greater rate than is assessed upon other moneyed capital in the hands of individual citizens of such state.

(2) "Provided, further, that the tax so imposed under the laws of any state shall not exceed the rate imposed upon the shares in any of the banks organized under authority of the state where such association is located.

(3) "Provided, also, that nothing in this Act shall exempt the real estate of associations from either state, county, or municipal taxes to the same extent, according to its value, as other real estate is taxed."

In Van Allen v. Assessors, 3 Wall, 573, 18 L. Ed. 229, and Bradley v. The People of the State of Illinois, 4 Well,

459, 18 L. Ed. 433, the Supreme Court of the United States, in contruing the tax provision of the national bank act, held that as the capital of state banks may consist of the bonds of the United States, which are exempt from state taxation, a tax on the capital is not equivalent to a tax on the shares. The state act provided for taxing the capital of state banks, but no tax was specifically imposed on the shares held by the stockholder.

Subsequent to these decisions, by amendment adopted in 1868, the second proviso was omitted (15 Stat. L. 34), and in its amended form the Act provided that the Legislature of each state may determine and direct the manner and place of taxing all the shares of national banks located within said state subject to the restriction "that the taxation shall not be at a greater rate than is assessed upon other moneyed capital in the hands of individual citizens of such state." It will be noted that by the act of 1864 the rate must not exceed the rate imposed upon the *shares* of state banks, while by the 1868 amendment the clause as to the rate imposed upon shares of state banks was eliminated and as modified the law provides that the rate must not exceed that assessed upon other moneyed capital in the hands of individual citizens of the state.

(See Mercantile National Bank v. New York, 121 U. S. 148.)

In Richards v. Rock Rapids, 31 Fed. 505, 507, in speaking of this change in the law, the Court said:

"If this clause of the Act remained in force, it would still be a question whether savings banks were properly included within the term 'banks' as therein used; but the clause itself has been repealed, and therefore the ruling in Hubbard v. Board Sup'rs (23 Iowa, 130) so far as it is based thereon is wholly inapplicable to the case now before the court.

Section 5219 of the Revised Statutes does not contain this proviso......

> As the law now is, the right of the state to tax shares in national banks is not dependent upon the question whether shares in state or savings banks are taxed. The right to tax such shares exists, and the manner of imposing the tax is for each state to determine for itself, subject only to the two restrictions above cited, (those contained in Section 5219, R. S.). It is not, therefore, sufficient, as is assumed in argument, to show merely that the state laws provide a different mode or manner of taxing moneyed capital invested in savings banks or other corporations from that applied to the taxation of money invested in national banks. Before the assessment of the shares in the national banks can be held invalid and void, it must be shown there is in fact a higher burden of taxation imposed upon the money invested than is imposed upon other moneyed capital."

And when the question of alleged descrimination was again presented in the recent case of Des Moines National Bank v. Fairweather, 68 L. Ed., 71 (advance sheets), the Supreme Court, in sustaining the tax said:

> "The capital of private bankers is taxable, save the part invested in exempt government securities. The state taxes all of that capital, save the exempt securities. They are exempt because the United States makes them so, and the statute merely respects the exemption. In what is thus done does the state discriminate against national bank shares and in favor of other moneyed capital in the sense of the restriction?"

And the Court held that allowing the deduction of the value of securities of the United States held by a private banker from his capital for purposes of taxation, and refusing to permit the deduction of such securities from the capital of national banks in fixing the value of their shares

for purposes of taxation, does not tax the shares of bank stock at a higher rate than other moneyed capital in the state, in violation of U. S. Rev. Stat., Section 5219.

II.

Defendant denies that the Fairweather case governs in the case of state banking corporations and contends that Chapter 416, Laws of 1921, "established a method which placed a greater burden of taxation upon the shareholders in national than in state banks, and which resulted from and was produced directly by the law itself." It is conceded that the method of assessment provided by Sections 2017 and 2018, G. S. 1913, was valid, for the reason that the act imposed the tax upon the shares, whether of national or state banks, but it is claimed that by the Act of 1921 the tax is imposed upon the capital of state banks and not upon its shares and from this it follows that exempt United States securities must be deducted, and a discrimination arises in favor of the state banks; and the further claim is made that the amendment was "voluntary and intentional." Upon this contention, defendant claims that the tax levied upon national bank shares is void.

Sections 2017 and 2018, G. S. 1913, are nearly identical. By Section 2018 an omission in Section 2017 relating to a sworn statement in the case of mortgage loan companies was supplied, and to the last clause of Section 2017, there was added a provision referring to the listing of shares of national banks not located in this state. By Sections 2017 and 2018, the shares were to be valued for the purpose of taxation at their true and full value, but the classification statute enacted later changed this to forty per cent of the true and full value. By the old law, the cashier was obliged to show by sworn statement the amount and number of shares of capital stock and *the surplus or reserve fund.* In

this situation the legislature enacted Chapter 416, Laws of 1921. It re-enacts in concise form most of the existing law, but broadens its scope through certain changes made apparently with the aim of conforming more fully to the congressional assent. Its terms do not indicate a purpose to apply a different basis in the valuation and taxation of the shares of state banks than that employed in the valuation and taxation of the shares of national banks.

Analyzing the statute briefly, its purpose as expressed in the title is to provide "for the assessment and taxation of the shares of banks organized under the laws of the United States and the moneyed capital of banks and mortgage loan companies organized under the laws of this state."

In lieu of the requirement of a statement of the "surplus or reserve fund" there is substituted the more comprehensive statement "surplus, undivided profits and all other funds." The 1921 Act repealed Sections 2017 and 2020 and all other acts or parts of acts, "*in so far as they are inconsistent*" therewith. Since the 1921 act contains no provision for listing of the shares of the bank, it did not repeal the provision of the old law requiring the cashier or other officer to list for assessment all shares of the bank in the same manner as the general property of the bank is listed and it follows that this provision in the old law must be read with the new law. The same may be said as to the provisions of Sections 2020 and 2021 so far as not inconsistent with the 1921 act.

1. By the 1921 act (a) shares of national banks are to be taxed, (b) moneyed capital (the designation employed in the Act of Congress) of state banks it to be taxed.

2. The same method of valuation of both the national bank shares and moneyed capital of state banks is provided In each case, there must be furnished a sworn statement showing the amount and number of shares of the capital st ck; the amount of surplus, undivided profits and all other

funds and the amount of legally authorized investments in real estate and in both cases the method of valuation is the same.

3. The national bank as agent of its shareholders pays the tax, and the state banks pay the tax on the moneyed capital. Both as to assessment and levy of tax, the new law has been construed by the taxing authorities and accepted by the taxpayer in the same way as Sections 2017 and 2018, G. S. 1913. The shares of both national and state banks have been listed for assessment in the same way as required by said sections.

In the circumstances, a proper construction of the Act of 1921 is that the payment of the tax by the state bank is as agent of its shareholders just as in the case of national banks, for, in both cases, a single payment by the bank discharges the tax as to both bank and its shareholders. Such a construction is in accord with the reason and spirit of the act. (Dunnell's Minn. Digest, Sec. 1576.) It gives effect to the act and in practical operation has been considered a correct construction.

As stated in Cooley on Constitutional Limitations, 255, Seventh Edition:

> "The Court, if possible, must give the statute such a contruction as will enable it to have effect, * * * the Court must construe the statute in accordance with the legislative intent; since it is always to be presumed the legislature designed the statute to take effect, and not to be a nullity."

"As every presumption is in favor of the statute, if it is open to two constructions, one of which would obey and the other violate the Constitution, the universal rule of courts is to select the former."

People ex. rel., Simpson, v. Wells, 181 N. Y. 252, 73 N. E. 1025.

People v. Feitner, 191 N. Y. 88-96, 83 N. E. 592.

In the final analysis, "the question of discrimination against national banks is one of fact and not one of the possible effects of the tax statute."

3 Cooley on Taxation, Sec. 1000, 4th Edition.

Commercial Trust Co. of New Jersey v. Hudson County Board of Taxation, 86 N. J. L., 424, 434, 92 Atl. 263.

Mechanics Nat. Bank of Trenton v. Baker, 65 N. J. L. 113, 46 Atl. 586.

Davenport Bank v. Davenport, 123 U. S. 93.

Since, in the instant case, there was no discrimination against national banks in favor of state banks, "the possible effects of the tax statute" requires no further consideration.

III.

The burden is on the stockholders or the bank as their agent to show such discrimination. They must show the necessary facts, which includes a showing that the amount of other moneyed capital in the taxing district is substantial and that the moneyed capital claimed to be given an unjust advantage does come into competition with the business of national banks, (Cooley on Taxation, Sec. 1000, 4th Ed.); and it must be satisfactorily made to appear by the proof that the moneyed capital claimed to be given an unjust advantage is capital which comes into competition with the business of national banks. (Commercial Bank v. Chambers, 182 U. S. 560; First Nat. Bank v. Chapman, 173 U. S. 205-219.)

The term "moneyed capital" as used in Rev. Stat. U. S., Sec. 5219, embraces capital employed in national banks and capital employed by individuals when the object of their business is the making of profit by the use of their moneyed capital as money,—as in banking as that business is defined

in the opinion of the court. (Palmer v. McMahon, 133 U. S. 660, 667.) As defined in Mercantile Bank v. New York, 121 U. S. 138: "The business of banking, as defined by law and custom, consists in the issue of notes payable on demand, intended to circulate as money where the banks are banks of issue; in receiving deposits payable on demand; in discounting commercial paper; making loans of money on collateral security; buying and selling bills of exchange; negotiating loans, and dealing in negotiable securities issued by the government, state and national, and municipal and other corporations." And as stated in First National Bank of Aberdeen v. County of Chehalis, 166 U. S. 440: "The main purpose, therefore, of Congress in fixing limits to state taxation on investments in the shares of national banks, was to render it impossible for the state, in levying such a tax, to create and foster an unequal and unfriendly competition by favoring institutions of individuals carrying on a similar business and operations and investments of a like character." The Act simply requires that capital invested in national banks shall not be taxed at a greater rate than like property similarly situated. It forbids an unfriendly competition by favoring institutions or individuals carrying on a similar business and operations and investments of a like character.

It was not intended to cut off the power of the Legislature to exempt from taxation particular classes of property if "these exemptions should be founded upon just reason, and not operate as an unfriendly discrimination against investments in national bank shares."

Mercantile Bank v. New York, 121 U. S. 138.

"The rule of the Mercantile Bank case practically comes down to a disregard of formal legal discrimination where there is in fact no substantial economic discrimination."

31 Harvard Law Review, 366 and 367.

In the recent case of Merchants National Bank v. The City of Richmond, 256 U. S. 638, the Supreme Court, following previous decisions to the same effect, held that "the words 'moneyed capital' in the hands of individual citizens * * * include not only moneys invested in private banking, properly so-called, but investments of individuals in securities that represent money at interest and other evidences of indebtedness such as normally enter into the business of banking."

The Court in declaring the state tax discriminatory and unlawful, said, "that upon the undisputed facts the ordinance and statute under which the stock of plaintiff in error was assessed, as construed and applied exceeded the limitation prescribed by Sec. 5219, Rev. St., and hence that the tax is invalid."

The decision of the state court (Richmond v. Merchants Natl. Bank, 124 Va. 527) indicates that the question of competition of moneyed capital in the hands of individual citizens was deemed immaterial. In the language of the Court:

> "Obviously, the general purpose of the Federal statute is to prevent discrimination by the States in favor of state banking associations against national banking associations; and no such discrimination is suggested or shown from this record to exist."

and as stated in the syllabus:

> "The general purpose of Section 5219 of the Revised Statutes of the United States is to prevent discrimination by the States in favor of State banking associations, against national banking associations, so that the phrase 'moneyed capital,' used therein, means capital engaged in the operations of banking, which is used as a source of profit."

This erroneous contruction of the law, opposed as it was to the law as decided by the Supreme Court of the United

States, coupled with the fact that competition of moneyed capital of private citizens was not disputed, made inevitable a reversal of the decision of the state court.

So in People ex rel., Hanover Nat. Bank v. Goldfogle, 234 N. Y. 345, the relator alleged unjust competition and the respondent made no attempt to controvert this claim. The lower court found the claim of relator to be true and no exception was filed thereto and no appeal taken. The appellate court said: "The court below has found that the competing capital in the hands of individuals subject only to the personal property income tax, is very large." The facts then showed a substantial discrimination in favor of the individual citizen and the ruling in the Richmond and prior cases was applied. (See an interesting discussion of these two cases in Proceedings of 16th Annual Conference of National Tax Association, 1923, pp. 194, 195, 208 and 209.)

IV.

Applying the principles as stated, does the evidence in the instant case sustain the claim of an unlawful discrimination in favor of moneyed capital in the hands of individual citizens?

1. "Money and credits" listed pursuant to Sec. 2316, G. S. 1913, are taxed at the rate of three mills and by the terms of the act, they are exempt from other taxation. The form of return for such personal property shows a classification into fifteen classes. Defendant's Exhibits K and L include the individual returns of "money and credits" listed by individuals in the City of St. Paul in the years 1921 and 1922, in cases where the individual returns exceed $4,000. These exhibits show a return of approximately 91% of all such property listed by individuals in the years 1921 and 1922, aggregating $52,996,499.

It is contended that items 4, 5, 6, 7 and 15 constitute moneyed capital coming into competition with the business of national banks.

Item 4. The evidence tends to show that almost the entire amount of this item consists of promissory notes given in settlement of past due indebtedness. It may be fairly assumed that this item amounting to $4,130,256 does not come into competition with the banking business and there is no proof that such competition exists.

Item 5. The evidence tends to show that this item, amounting to $17,527,930, includes in a large degree bonds bought for investment purposes and not as speculations, and that usually the investment has not been made in a business competing with banks, but has been made with surplus funds not required by the individual for business purposes.

Item 6. Mortgages upon lands outside the State of Minnesota aggregating $3,890,870. The testimony tends to show that to a large extent such mortgages are negotiated by banks, investment companies and trust companies, and sold by them to individuals and corporations to be held as long time investments. In these cases, such investments are not in competition with the banking business.

Item 7. Unrecorded mortgages on land within the state amounting to $186,730. The amount is not substantial and can have no appreciable effect or bearing upon the question at issue.

Item 15. Shares of stock in corporations the property of which is not assessed or taxed in the state, amounting to $10,782,105. In the absence of proof of the nature and purposes of these corporations, it cannot be assumed that this is moneyed capital competing with national banks. It is a matter of common knowledge that private citizens hold large investments in railroad and industrial stocks which would come under this item.

The other items included in Exhibits K and L are not shown to be moneyed capital coming into competition with the business of national banks.

In Bank of Commerce v. Seattle, 166 U. S. 463, the complaint alleged that there existed large amounts of taxable moneyed capital owned by resident citizens and invested in interest-bearing bonds and securities, and that all of said other moneyed capital referred to was all the moneyed capital in the city owned by resident individual citizens and invested in interest-bearing loans, discounts and securities. It was held that the omission from assessment of all such capital was not sufficient to make a tax on the shares of stock of a national bank invalid as an unlawful discrimination against the latter unless the moneyed capital left unassessed was, as to any material portion thereof, moneyed capital coming into competition with that of national banks. While in the instant case, it is shown by the tax assessment that there is a large amount of money and credits in the state and county, discrimination of the kind stated and in the manner pointed out in Bank of Commerce v. Seattle is not shown.

In the case last cited the Court observed: "We are still uninformed whether the moneyed capital left unassessed was, as to any material portion thereof, moneyed capital coming into competition with that of national banks," and that observation seems pertinent to the situation here presented.

V.

In New York ex rel., Amoskeag Savings Bank v. Purdy, 231 U. S. 373 at 392, the Court said that "the question whether an owner of national bank shares has been subjected to a state tax in excess of the limitations prescribed by Sec. 5219, Rev. St. (U. S. Comp. Stat. 1901, p. 3502) is a

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practical question to be determined by considering whether he is actually discriminated against in favor of other moneyed capital in the hands of individual citizens of the state," and the Court further said: "Moreover, we agree with what was said by the court of appeals of New York in the Feitner case (191 N. Y. 88, 96, 83 N. E. 592) that 'the state is not obliged to apply the same system to the taxation of national banks that it uses in the taxation of other property, provided no injustice, inequality, or unfriendly discrimination is inflicted upon them.' The Court there took note of the fact that the flat rate of 1 per centum assessed upon national bank shares was more favorable to the relator than the general tax rate for the same year in the borough of Manhattan, where the banks were located. * * * As against the owner of bank shares who, by alleging discrimination, assumes the burden of proving it, and who fails to show that the method of valuation is unfavorable to him, it may be assumed to be advantageous."

It appears that the resources of the defendant for the year 1921, less investments in banking house furniture and fixtures, were $46,015,545.92, and the year 1922 $52,927,523.88. If taxed at a rate of three mills, the tax to be charged would have been for the year 1921, $138,046.63, and for the year 1922, $158,782.58 as compared with $163,086.20, levied in 1921, and $160,591.26, levied in 1922. Completing the comparison upon this basis with the years 1914 to 1920, inclusive, it is found that in the period from 1914 to 1919, the advantage would have been with the shareholders of the defendant bank, and that in the years 1920, 1921 and 1922, the disadvantage to the shareholders would not have been substantial in amount.

The citizen is taxed at three mills upon *all* his money and credits *without deduction of debts*. The shares of stock in the bank reflect in a great measure the *net* assets of the

bank, *a deduction of the bank indebtedness* from its money and credits.

Treating this matter as "a practical question (as it should be, as indicated in New York ex rel. Amoskeag Savings Bank v. Purdy, supra), the present method of taxation cannot be said to inflect any "injustice, inequality or unfriendly discrimination."

In People v. Weaver, 100 U. S. 539, the Court said: "This taxation, says the Act, shall not be at a greater rate than is assessed on other moneyed capital. What is it that shall not be greater? The answer is taxation."

"Looking at the fundamentals of the burden in actual tax results" the tax imposed upon the shares of the defendant is not greater than that imposed upon other moneyed capital. If the three mill tax rate upon money and credits were applied to national banks or to their shareholders in a manner equivalent to its operation upon individuals, the shareholders would be subject to no greater amount of tax than they are now compelled to pay.

VI.

1. The evidence shows that only a negligible part of the capital of defendant was invested in real estate mortgages, The defendant was not engaged in the purchase and sale of such securities, but the Northwestern Trust Company, its affiliated company, was engaged in that business and on the first day of May, 1921, it held real estate mortgages to an amount exceeding $17,000,000.

2. On May 1, 1921, the total amount of all such mortgages held by all national banks of Ramsey county was $339,000, and on May 1, 1922, $377,000, and the amount of such loans made in Ramsey county between January 1, 1921, and April 30, 1922, (not including loans by savings banks and trust companies) aggregated $13,089,491. The amount

of such loans made by individual citizens is not shown. Upon these facts, it cannot be found that there was a discrimination in favor of the competing moneyed capital of the individual citizen.

3. Through the 1907 mortgage tax law the legislature exercised its power to confer a partial exemption in the taxation of mortgages. As decided in Hepburn v. School Directors, 90 U. S. 480; Adams v. Nashville, 95 U. S. 19; Mercantile Bank v. New York, supra; Bank v. Chehallis County, 166 U. S. 442; Bank of Commerce v. Seattle, supra, the Act of Congress "was not intended to cut off the power to exempt particular kinds of property, if the Legislature chose to do so * * * these exemptions should be founded upon just reason, and not operate as an unfriendly discrimination against investments in national bank shares;" and in Hepburn v. School Directors, supra, the Court said that though, as shown in the case, mortgages and articles of agreement for the sale of real estate were partially exempted from taxes, this was not a discrimination against shares of national banks.
In the language of the Court:

> "This is a partial exemption only. It was evidently intended to prevent a double burden by the taxation both of property and debts secured upon it. Necessarily there may be other moneyed capital in the locality than such as is exempt. If there is, moneyed capital, as such, is not exempt. Some part of it only is. It could not have been the intention of Congress to exempt bank shares from taxation because some moneyed capital was exempt."

Both the mortgage and the money and credits laws by their terms create a partial exemption.

That there was a good and sufficient reason for special

methods in the taxation of mortgages and money and credits appears from the statements of our Supreme Court in Mutual Benefit Life Ins. Co. v. County of Martin, 104 Minn. 179-182, and State v. Minnesota Tax Commission, 117 Minn. 159, 160.

VII.

Section 5219, Rev. Stat. U. S., was amended by Act of Congress approved March 4, 1923. By the amendment, the states were given additional power as to the mode of taxation and were authorized to legalize, ratify or confirm any tax theretofore "paid, levied or assessed upon the shares of national banks, or the collecting thereof, to the extent that such tax would be valid under said section." A legalizing statute was enacted by the Legislature and approved March 29, 1923.

"All that has ever been held to be necessary is that the system of state taxation of its own citizens, of its own banks, and of its own corporations shall not work a discrimination unfavorable to the holders of the shares of the national banks."

Davenport Bank v. Davenport, 123, U. S. 83.

The defendant has failed to establish that "moneyed capital" as the term is used in Sec. 5219, Rev. Stat., comes into competition with the business of national banks, thereby working "a discrimination unfavorable to the holders of the shares of the national banks."

BECHHOEFER, J.

(Title of Cause.)

NOTICE OF MOTION

To Amend and Add to the Findings of Fact and to Amend the Conclusions of Law.

Please Take Notice that The First National Bank of St. Paul, the above named defendant, at a special term of said District Court to be held at the Court House in the City of St. Paul on the 18th day of October, 1924, at ten o'clock a. m., or as soon thereafter as said matter can be heard, will move the Court as follows:

I.

To amend Paragraph 3 of the Findings of Fact so that the same will read as follows:

> "The value of the shares of stock of banks in the State of Minnesota organized under the national banking laws of the United States and the value of the moneyed capital of state banks and mortgage loan companies organized under the laws of Minnesota, for the years 1921 and 1922, was determined pursuant to the provisions of Chapter 416, laws of 1921, and the unrepealed parts of acts existing at the time of the enactment of the 1921 law. The taxing authorities, in determining the valuation of all such banks and companies for the years 1921 and 1922, applied the method theretofore applied for some years immediately prior to such determination which was the method provided by Sections 2017 and 2018, G. S. 1913; that is, the valuation was determined by taking the amount of the capital stock, the amount of the surplus, the amount of undivided profits, and other funds, and subtracting

therefrom the amount of legally authorized investments in real estate, and forty (40) per cent of the balance or remainder, was taken as the basis for valuation and the amount to be assessed."

II.

Strike out Finding 4 and in lieu thereof insert the following:

"The full and true value of the shares of the Capital Stock of the defendant for the year 1921, after deducting real estate, (but including bonds and securities of the United States Government amounting to $3,453,-665,06), was $6,002,218.01 and said shares were assessed at forty (40) per cent of such full and true value, being $2,400,887.20, which was taxed at a rate of 67 mills and the amount levied as taxes was $160,859.54. The full and true value of the shares of the capital stock of the defendant for the year 1922, computed by including in assets bonds and securities of the United States Government, amounting to $11,343,234.95 after deducting real estate as so determined was $6,528,104,06 and said shares were assessed at forty (40) per cent of such full and true value, being $2,611,240, which was taxed at a rate of 61½ mills and the amount levied as taxes was $160,591.26."

III.

To add at the end of Paragraph 5 of the Findings of Fact the following:

"The said money and credits so listed and assessed for the years 1921 and 1922 in Ramsey county, as

shown by defendant's Exhibit G, consisted of the following items:

ITEMS	1921	1922
1. Money subject to check and on deposit in banks, trust companies, or similar financial institutions, where situate	$9,117,749	$9,341,138
2. Money on deposit in banks, trust companies, postal and other savings banks, or similar financial institutions, wherever the same are situate, and which is represented by certificates of deposit, cashier's checks, or similar instruments	745,030	1,053,650
3. Money, other than above specified, on hand or under control of the owner or his agent, whether the same is held in this state or elsewhere	479,167	718,318
4. Promissory notes, bills of exchange, due bills, cream checks, and similar evidences of indebtedness.....	7,265,200	6,825,425
5. Bonds, except United States Bonds and bonds issued by State of Minnesota or any		

municipality thereof and such as are secured by real estate mortgages recorded in this state	8,290,795	10,785,020
6. Real estate mortgages upon lands situate outside of this state, and amount secured thereby	2,072,790	1,989,760
7. Real estate mortgages on lands in this state which have not been recorded and the amount secured thereby	99,055	135,160
8. Chattel mortgages, upon personal property in this state or elsewhere, and the amount secured thereby....	1,649,369	1,374,835
9. Judgments in this state or elsewhere	200,740	615,995
10. Book accounts	36,772,916	34,617,422
11. Contracts for sale of real estate outside of this state....	391,400	328,945
12. Contracts for sale of real estate in this state which have not been recorded.........	598,830	444,885
13. Annuities, royalties, and all sums of money receivable at stated periods	72,650	82,150

14.	All claims and demands for money or other valuable thing not above enumerated	105,800	173,700
15.	Shares of stock in corporations, the property of which is not assessed or taxed in this state	8,773,620	8,180,240
	Grand Total	$76,635,111	$76,665,643

These moneys and credits were apportioned between corporations and individuals, as shown by defendant's Ex. K, as follows:

Item No.	Corporations	Individuals
1.	$ 5,100,329	$ 4,017,420
2.	160,015	585,015
3.	442,790	36,377
4.	4,783,754	2,481,446
5.	694,820	7,595,975
6.	105,320	1,967,470
7.	5,400	93,655
8.	1,264,685	384,684
9.	192,500	8,240
10.	34,206,204	2,566,712
11.	57,120	334,280
12.	354,220	244,610
13.	000	72,650
14.	50,420	55,380
15.	4,046,920	4,726,700
Total	$51,464,497	$25,170,614

That the total amount of money and credits listed and assessed for taxation in the entire State of Minnesota for the year 1921 ($422,745,839), and for the year 1922 ($400,688,948), consisted of the following percentage for each item, namely:

No. 1	18.18 per cent.
No. 2	12.65 per cent.
No. 3	1.64 per cent.
No. 4	10.13 per cent.
No. 5	4.51 per cent.
No. 6	3.87 per cent.
No. 7	0.68 per cent.
No. 8	0.86 per cent.
No. 9	0.21 per cent.
No. 10	34.34 per cent.
No. 11	0.63 per cent.
No 12	1.53 per cent.
No. 13	0.15 per cent.
No. 14	4.61 per cent.
No. 15	6.01 per cent.

and that Item No. 4 in said exhibits consisted almost entirely of unsecured promissory notes."

IV.

Strike out the following part of Paragraph 7 of the Findings of Fact:

"No material or substantial portion of the money and credits so listed and assessed consisted of moneyed capital in the hands of individual citizens of this state coming into competition with that of national banks or causing any inequality or discrimination in taxation

as against national banks or their shareholders generally."

and insert in place thereof the following, namely:

"That at the time of the assessment of said taxes for the years 1921 and 1922, large sums of money in the hands of individuals residing in said Ramsey County were invested by such individuals in unsecured promissory notes, and large sums of money were invested by individuals residing in said County, in the following securities, namely: Bonds (except United States Bonds and bonds issued by the State of Minnesota or any municipality thereof, and except bonds secured by real estate mortgages recorded in the State of Minnesota), and in real estate mortgages upon lands situate outside of this state, and in shares of stock in corporations the property of which is not assessed or taxed in the State of Minnesota, and the amount of such loans and investments actually made in said Ramsey County and State of Minnesota was greatly in excess in each instance of the amount so listed and returned for taxation, and that all of such loans and investments were in competition with the business of the defendant and other national banks within said county and state, and that at the time of the assessment of said taxes large sums of money in the hands of private individuals residing in said State of Minnesota outside of said City of St. Paul were loaned by such individuals on unsecured notes and large sums of money were invested in bonds, real estate mortgages and shares of stock of the character before described, and that all of such loans and investments were made in competition with the business of national banks located in said state."

V.

Strike out the last paragraph of Paragraph 8 of the Findings of Fact, namely:

> "All of said trust companies were operated as adjuncts to their affiliated banks and as aids to the business of said banks."

VI.

Strike out Paragraph 9 of the Findings of Fact and insert in lieu thereof the following:

> 9. "In addition to money borrowed by them from banks, commercial houses in the State of Minnesota in the years 1921 and 1922 borrowed money through brokers, the amount being estimated in Ramsey County at $15,000,000 per year and throughout the entire state at from $40,000,000 to $100,000,000 per year.
>
> 10. The investments and loans described in Paragraph 9 were in direct competition with the business of defendant and other national banks, and it appears that the loans made by these commercial houses from brokers, residents of Minnesota, greatly exceeded the loans made by them from national banks, due largely to the fact that a better rate of interest could often be secured from the broker than from the national bank. The loans made by brokers were not made through banks, but were direct and independent transactions between the broker and his customer, the broker disposing of the paper to banks and individuals."

VII.

Strike out Finding No. 10 and 11 and insert in lieu thereof:

11. "The laws of Minnesota relating to the taxation of national bank shares is unequal and not fair as to national banks and their shareholders, and do permit unfair and unjust discrimination in favor of competing moneyed capital in the hands of individual citizens of the state and do permit unjust and unfair discrimination in favor of state banks and other institutions competing with the business of national banks in said state."

VIII.

Add the following Findings of Fact, viz.:

a. The capital stock, surplus, undivided profits and all other funds, less authorized investments in real estate, of National banks in the State of Minnesota on the first day of May, 1921, taken by the tax officers of the state in determining the value of the shares of such national banks, was $62,556,000, and upon said date said banks owned United States bonds and securities amounting to $41,190,000, which were included in the aggregate value of the shares of said banks for the purpose of taxation. (Defendant's Exhibit "M.")

b. That on said May 1st, 1921, the total surplus, undivided profits, and other funds, less authorized investments in real estate, of national banks in Ramsey County, Minnesota, amounted to $12,658,000, and upon said date said banks in said county owned United States bonds and securities amounting to $11,148,000, which were included in determining the value of the shares of said banks for the purposes of taxation. (Defendant's Exhibit "M.")

c. That on said May 1st, 1921, the capital, surplus, undivided profits and other funds exclusive of authorized investments in real estate owned by cor-

porate banks in and organized under the laws of the State of Minnesota, amounted to $32,017,597.55, of which the sum of $13,369,840.32 consisted of United States Government Bonds and Securities. (Defendant's Exhibit "C.")

d. That on said May 1st, 1921, the total, capital, surplus and undivided profits, less authorized investments in real estate, held by such state banks located in Ramsey County, Minnesota, amounted to the sum of $1,840,540, of which the sum of $1,763,018.41 consisted of United States Government Bonds and Securities. (Defendant's Exhibit "S.")

e. The capital stock, surplus, undivided profits and all other funds, less authorized investments in real estate of national banks in the State of Minnesota on the first day of May, 1922, taken by the tax officers of the state in determining the value of the shares of such national banks was $62,601,000, and upon said date said banks owned United States Bonds and Securities amounting to $49,505,000, and which were included in determining the aggregate value of the shares of said banks for the purpose of taxation. (Defendant's Exhibit "M.")

f. That on said May 1st, 1922, the total surplus, undivided profits, and other funds, less authorized investments in real estate, of national banks in Ramsey County, Minnesota, amounted to $12,891,000, and upon said date said banks in said County owned United States Bonds and Securities amounting to $18,236,000, and which were included in determining the aggregate value of the shares of said banks for the purposes of taxation. (Defendant's Exhibit "M.")

g. That on said May 1st, 1922, the capital, surplus, undivided profits and other funds, less authorized investments in real estate owned by corporate banks in

and organized under the laws of the State of Minnesota, amounting to $31,068,116.36, of which the sum of $9,830,679.57 consisted of United States Government Bonds and Securities. (Defendant's Exhibit "E.")

h. That on said May 1st, 1922, the total, capital, surplus and undivided profits, less authorized investments in real estate, owned by such state banks located in said Ramsey county Minnesota, amounted to the sum of $1,615,915.19, of which the sum of $1,290,477.06 consisted of United States Government Bonds and Securities. (Defendant's Exhibit "S.")

i. That on said May 1st, 1921, the total capital, surplus and undivided profits of the defendant, including in the computation as assets Bonds and Securities of the United States Government in the sum of $3,453,665.06 but excluding authorized investments in real estate, was $6,002,218.01 and on May 1st, 1922, the total capital surplus and undivided profits of the defendant including in the computation as assets Bonds and Securities of the United States Government in the sum of $11,343,234.95, but excluding authorized investments in real estate was $6,528,104.06.

j. That trust companies are taxed pursuant to Section 2268 General Statutes of Minnesota for 1913. The aggregate capital stock of such companies organized under the laws of Minnesota not receiving deposits and paying a tax of 5% on gross earnings, was on May 1, 1921 and 1922, $2,135,000. The result of such tax upon gross earnings is exemplified by the tax imposed upon Northwestern Trust Company. The tax for the year 1921 on the gross earnings of that company was $13,832.22, while the tax for the same year, if imposed on its shares of stock at the rate and in the manner provided for taxing shares in National

banks, would have been at least $30,000. (Defendant's Exhibit "J.")

k. The total loans secured by mortgages on real estate by national banks in the State of Minnesota on May 1st, 1921 was $19,713,000, and upon May 1st, 1922, was $25,409,000, the value of all said loans being included in the amount taken by the tax authorities of the State of Minnesota to determine the value of the shares of said national banks. (Defendant's Exhibit "N.")

l. The total loans secured by mortgages on real estate in the State of Minnesota made during the year 1921 amounted to at least $184,560,000; and to a larger sum in the year 1922.

m. That of the mortgage loans so made in Ramsey county during the year 1921, loans to the sum of at least $6,000,000 were made by individual citizens of Ramsey county, and in the year 1922 such mortgage loans to the amount of at least $6,000,000 were made by individual citizens of Ramsey county.

n. That the only tax paid upon any of said mortgages held by individuals was the tax, provided by Section 2302 General Statutes 1913 as amended by Chapter 73, Laws of 1917, and Chapter 445 Laws of 1921, of fifteen cents upon each one hundred dollars or fraction thereof of the principal when the loan matures within five years and sixty days from its date, and twenty-five cents for each one hundred dollars when the loan matures at a later date.

o. During the years 1921 and 1922 many of the commercial houses and jobbers in said City of St. Paul borrowed large sums of money from their employes and officers, and such loans, by commercial houses, who were the customers of defendant bank, for each of said years amounted to approximately $1,500,000.

IX.

To amend the Conclusions of Law by striking out the words "together with interest," and further amend the same so that said Conclusions will read as follows:

> "The Court finds that the State is not entitled to judgment against the defendant for the amount claimed as taxes for the years 1921 and 1922, as above recited, or in any other amount, and that the attempted levy, assessment and extension of the tax for each of said years be canceled, annulled and set aside, and that the State take nothing by this action, and that defendant have judgment for its costs and disbursements herein."

X.

The grounds for the foregoing motion will be that the Findings of Fact and Conclusions of Law as filed are not justified by the evidence and are contrary to law, and that the amended and additional findings of fact and conclusions of law herein proposed are warranted, justified and required by the evidence, and that the defendant is entitled to have such amended and additional finding of fact and conclusions of law as a matter of right and law.

Dated October 7th, 1924.

O'BRIEN, HORN & STRINGER,
Attorneys for Defendant,
1116 Pioneer Building,
St. Paul, Minnesota.

To H. H. Peterson, Esquire, County Attorney, and Rollin L. Smith and Patrick J. Ryan, Attorneys for Plaintiff.

(Title of Cause.)

ORDER.

The above entitled actions came on for hearing at a special term of this court on the 25th day of October, 1924, upon the motion of defendant for amendment of the Findings of Fact and Conclusions of Law herein in the manner and as specified in the notice of motion. Plaintiff appeared by its attorneys H. H. Peterson, County Attorney, Rollin L. Smith and Patrick J. Ryan, and the defendant by its attorneys O'Brien, Horn & Stringer.

After hearing counsel and upon due consideration, it is Ordered, that the motion of the defendant be and the same is in all things denied.

Dated October 30, 1924.

CHARLES BECHHOEFER,
District Judge.

MEMORANDUM.

In Paragraph 2 of Subdivision VI of the memorandum accompanying the findings, it is stated that the amount of Mortgage Loans made in Ramsey County by individual citizens is not shown. In making this statement the Court inadvertently overlooked certain testimony bearing upon the question (P. 118 and 119 of the Record) now brought to its attention by defendant's counsel.

An accurate statement of this testimony so far as it relates to the question is that the amount remaining unsatisfied of mortgages recorded during the year 1921 in Ramsey county upon real estate owned by residents of that county was $9,889,047

The amount of such mortgages owned by residents of Ramsey county was	$6,351,105
and the amount owned by corporations was	3,537,942
	$9,889,047
The amount of such mortgages recorded from January 1, 1922, to April 30, 1922, unsatisfied on the last named date and owned by residents of Ramsey county was	2,204,351
and for the period last mentioned, the aggregate amount of such mortgages and remaining unsatisfied on April 30, 1922, owned by Minnesota corporations, except savings banks and trust companies was	996,113
	$13,089,511
(Testimony shows a total of	$13,089,491)

Of this total, $1,019,569 were purchase money mortgages.

BECHHOEFER, J.

(Title of Cause.)

NOTICE OF MOTION FOR NEW TRIAL.

You are hereby notified that the above named defendant, The First National Bank of St. Paul, Minnesota, hereby moves for a new trial of the above entitled actions on the grounds:

I.

That the decision is not justified by the evidence and is contrary to law.

II.

That the Findings of Fact are not justified by the evidence produced at the trial of said actions, but are contrary thereto.

III.

That the Conclusions of Law are not justified by the evidence and are not justified by the Findings of Fact.

IV.

That the Court erred in finding, as a matter of fact, that on the 1st day of May, 1921, and again on the 1st day of May, 1922, no material or substantial portion of the money and credits listed and assessed for taxation consisted of moneyed capital in the hands of individual citizens of the State of Minnesota, coming into competition with national banks or causing any inequality or discrimination in taxation as against National Banks or their shareholders.

V.

The Court erred in failing and refusing to grant defendant's motion and request to amend the findings of fact and conclusions of law and for additional findings as the same appear in defendant's motion dated October 7th, 1924, and in refusing to grant said motion in each of the following particulars, to-wit:

(a) To amend paragraph three of said Findings.
(b) To amend paragraph four of said Findings.
(c) To amend paragraph five of said Findings.
(d) To amend paragraph seven of said Findings.

(e) To amend paragraph eight of said Findings.

(f) To amend paragraph nine of said Findings.

(g) To amend paragraphs ten and eleven of said Findings.

(h) To add to said Findings the findings of fact described in paragraph eight of said motion and to find as specified in each of said requested additional findings.

(i) To amend the Conclusions of Law as specified in said motion.

You are further notified that said motion will be brought on for hearing before the above entitled Court at a Special Term thereof to be held at the District Court House in the City of St. Paul, Ramsey county, Minnesota, on Saturday, the 1st day of November, 1924, at the opening of Court on that day or as soon thereafter as said matter can be heard, and will be based upon the pleadings, settled case and all the files and proceedings in said actions.

Respectfully,

O'BRIEN, HORN & STRINGER,
Attorneys for Defendant,
1116 Pioneer Building,
St. Paul Minnesota.

To the State of Minnesota, and to Messrs, Harry H. Peterson, Rollin L. Smith and Patrick J. Ryan.

(Title of Cause.)

ORDER DENYING MOTION FOR NEW TRIAL.

The motion for a new trial of the above entitled actions came on to be heard pursuant to due notice, November 1st, 1924, H. H. Peterson, Esquire, appearing on behalf of the plaintiff, and Messrs. O'Brien, Horn & Stringer appearing on behalf of the defendant.

Having duly considered said motion, it is

Ordered, that said motion for a new trial be, and the same is hereby in all things denied.

That proceedings in these actions be stayed for twenty days.

Dated this 1st day of November, 1924.

CHARLES BECHHOEFER,
District Judge.

(Title of Cause.)

NOTICE OF APPEAL TO SUPREME COURT.

To H. H. Peterson, Esq., County Attorney, and Messrs. Rollin L. Smith and Patrick J. Ryan, Attorneys for the above named plaintiff, and to N. C. Robinson, Clerk of said District Court:

Please take notice, that the above named defendant, The First National Bank of St. Paul, Minnesota, appeals to the Supreme Court of the State of Minnesota, from the order of the said District Court entered herein on the 1st day of November, A. D. 1924, denying defendant's motion for a new trial in the actions or proceedings above entitled, and from the whole thereof.

Dated this 5th day of November, A. D. 1924.

O'BRIEN, HORN & STRINGER,
Attorneys for Defendant,
1116 Pioneer Building,
St. Paul, Minnesota.

DECISION OF THE SUPREME COURT OF THE STATE OF MINNESOTA

No. 183 RAMSEY COUNTY Taylor, C.

THE STATE OF MINNESOTA,

Respondent,

24553 vs.

FIRST NATIONAL BANK OF ST. PAUL,

Appellant.

Endorsed
Filed July 17th, 1925.
GRACE F. KAERCHER, Clerk.

SYLLABUS

1. The shares of national banks can be taxed by the States only in the manner and to the extent authorized by section 5219 U. S. Revised Statutes, and the construction given to that statute by the federal courts is binding on the State courts.

2. Under that statute such shares cannot be taxed at a greater rate than moneyed capital in the hands of individual citizens employed in competition with such banks.

3. Interest-bearing demands against persons or corporations and money loaned or invested in securities, including personal investments of surplus funds, are deemed moneyed capital employed in competition with such banks.

4. Large amounts of such moneyed capital so employed are held by individuals, and are taxed under the money and

credits act at the rate of 3 mills on the dollar, while the shares of defendant are taxed at several times that rate. This is a discrimination forbidden by the statute, although the purpose in taxing such capital at such a low rate was to increase the revenue therefrom.

5. The tax on national bank shares is against the holders thereof, not against the bank, and the holders cannot deduct their liabilities in fixing the taxable value of the shares.

6. Taxing the shares of national banks against the holders, and the moneyed capital of State banks against the banks, thus allowing State banks to deduct their tax exempt securities in fixing the taxable value of such moneyed capital is permissible under the federal statute.

7. The act of March 3, 1923, amending section 5219 U. S. Revised Statutes does not legalize invalid taxes theretofore levied, but authorizes the State to collect such taxes to the extent that they would be valid under the prior law.

Reversed.

OPINION

The State brought these proceedings to obtain judgment against defendant, a national bank located in the City of St. Paul in the County of Ramsey, for the personal property taxes assessed against its shareholders for the years 1921 and 1922. The proceedings were separate for each year but involve the same questions and were tried together by consent. Defendant interposed answers asserting that the taxes were illegal and void for the reason that its shares were taxed at a rate largely exceeding the rate at which

money capital in the hands of individual citizens employed in competition with national banks was taxed. The trial court made extended findings and directed judgment for the State. Defendant appealed from an order denying a new trial. The facts are undisputed and the controversy is in respect to the conclusions to be drawn therefrom.

National banks being organized under the laws of the United States as instrumentalities of the national government, the State cannot tax them or their shares except as authorized by Congress. Des Moines National Bank v. Fairweather, 263 U. S. 103, 68 L. Ed. 191 and cases cited. The State cannot tax such banks directly for Congress has never given authority to do so, and in the years 1921 and 1922 it could tax the shares of such banks only as authorized by sections 5219 U. S. Revised Statutes, which reads:

> "Nothing herein shall prevent all the shares in any association from being included in the valuation of the personal property of the owner or holder of such shares, in assessing taxes imposed by authority of the State within which the association is located; but the legislature of each State may determine and direct the manner and place of taxing all the shares of national banking associations located within the State, subject only to two restrictions, that the taxation shall not be at a greater rate than is assessed upon other money capital in the hands of individual citizens of said State, and that the shares of any national banking association owned by non-residents of any State shall be taxed in a city or town where the bank is located, and not elsewhere. Nothing herein shall be construed to exempt real property of associations from either State, county or municipal taxes to the same extent, according to its value, as other real property is taxed."

This section was amended by the act of March 4, 1923, 42 Stat. 1499, also found in 6 Fed. Stat. Ann., 1923 Supp.,

at page 84, and the amendment applies to taxes for the years subsequent to 1922.

Section 5219 grants power to the State to tax the shares of national banks to the holders thereof subject to the two restrictions named. Defendant contends that the tax upon such shares, as assessed under chapter 416 Laws of 1921 of the State of Minnesota, violates the requirement that,

> "the taxation shall not be at a greater rate than is assessed upon other moneyed capital in the hands of individual citizens of such State."

Chapter 416, Laws of 1921, appears as sections 2023,2024, 2025 and 2026 of the General Statutes of 1923. Section 2023 provides:

> "The shares of stock of every bank in this State organized under the laws of the United States, and the moneyed capital of every bank or mortgage loan company organized under the laws of this State shall be assessed and taxed at forty (40) per cent of the true and full value thereof."

Section 2024 provides that the shares of stock of national banks shall be taxed against the holders thereof but in the name of the bank and that such taxes shall be paid by the bank as agent of the stockholders. It also provides that "the moneyed capital" of State banks and mortgage loan companies shall be taxed against the bank or loan company, and that the tax shall be paid by the bank or loan company. Section 2025 provides that the basis for determining the taxable value of the shares of stock of banks organized under the laws of the United States and the moneyed capital of banks and mortgage loan companies organized under the laws of this State shall be determined by deducting the amount of authorized investments in real estate from the aggregate amount of the capital, surplus, undivided profits and other funds of such bank or loan company.

The statute, (G. S. 1913¶2316), provides that money and credits shall be taxed at the rate of 3 mills on the dollar

of the fair cash value thereof and shall be exempt from all other taxation; but further provides that this provision shall not apply to money and credits belonging to incorporated banks, nor to indebtedness on which a tax is paid under sections 2301 to 2309 of the General Statutes of 1913. These sections impose a tax of fifteen cents on each one hundred dollars of debts secured by real estate mortgages where the debt matures not later than five years from the date of the mortgage, and a tax of twenty-five cents on each hundred dollars where the debt matures more than five years after the date of the mortgage. The mortgage cannot be recorded nor used as evidence until this tax is paid, and payment of it exempts the debt from all other taxes, except inheritance taxes. The term "mortgage", as used here, includes executory contracts for the sale of land where the vendee takes possession thereof and every instrument evidencing a lien of any kind on real estate as security for a debt. The statute, (G. S. 1923¶1975), defines money as including gold and silver coin and all forms of currency in common use and all deposits subject to withdrawal in money on demand; and defines credits as including every claim and demand for money or other valuable thing.

As the States have no power to tax national banks or the shares therein except as granted to them by Congress, the construction given by the Supreme Court of the United States to the act granting such power and defining its limits is binding and conclusive upon the State courts. It is settled by the decisions of that court that the term, "money capital in the hands of individual citizens," as used in section 5219, intends only the moneyed capital in the hands of individuals which is employed in competition with national banks. The various uses of moneyed capital which bring it within the statute have been plainly indicated in the numerous cases which have considered that question. In Mercantile National Bank v. Mayor etc. of New York,

121 U. S. 138, 30 L. Ed. 895, the court reviewed the prior decisions and pointed out the uses of capital which would be deemed to be in competition with the banks. In the later case of Merchants' National Bank v. Richmond, 256 U. S. 635, 65 L. Ed. 1135, this question was again considered and the court said:

> "By repeated decisions of this court, dealing with the restriction here imposed, it has become established that while the words 'moneyed capital in the hands of individual citizens' do not include shares of stock in corporations that do not enter into competition with the national banks, they do include something besides shares in banking corporations and others that enter into direct competition with those banks. They include not only moneys invested in private banking, properly so called, but investments of individuals in securities that represent money at interest and other evidences of indebtedness such as normally enter into the business of banking. In Evansville Nat. Bank v. Britton, 105 U. S. 322, 324, 26 L. Ed. 1053, 1054, the court said: 'The act of Congress does not make the tax on personal property the measure of the tax on bank shares in the State, but the tax on moneyed capital in the hands of the individual citizens. Credits, money loaned at interest, and demands against persons or corporations, (640) are more purely representative of moneyed capital than personal property, so far as they can be said to differ. Undoubtedly there may be much personal property exempt from taxation without giving bank shares a right to similar exemption, because personal property is not necessarily moneyed capital. But the rights, credits, demands, and money at interest mentioned in the Indiana statute, from which bona fide debts may be deducted, all mean moneyed capital invested in that way . . . We are of opinion that the taxation of bank shares by the Indiana statute, without permitting the shareholder to deduct from their assessed value the amount of his bona fide indebtedness,

as in the case of other investments of moneyed capital, is a discrimination forbidden by the act of Congress.'

And in Mercantile Nat. Bank v. New York, 121 U. S. 138, 30 L. Ed. 895, 7 Sup. Ct. Rep. 826, the court speaking by Mr. Justice Matthews, after reviewing previous decisions and pointing out (p. 154) the policy and purpose of the act as the key to its proper interpretation, proceeded to declare (p. 157): 'The terms of the act of Congress, therefore, include shares of stock or other interests owned by individuals in all enterprises in which the capital employed in carrying on its business is money, where the object of the business is the making of profit by its use as money. The moneyed capital thus employed is invested for that purpose in securities by the way of loan, discount, or otherwise, which are from time to time, according to the rules of the business, reduced again to money and reinvested. It includes money in the hands of individuals employed in a similar way, invested in loans, or in securities for the payment of money, either as an investment of a permanent character, or temporarily, with a view to sale or repayment and reinvestment. In this way the moneyed capital in the hands of individuals is distinguished from what is known generally as personal property.' Proceeding then to quote the passage we have cited from Evansville Nat. Bank v. Britton, supra.

(641) In Amoskeag Sav. Bank v. Purdy, 231 U. S. 373, 390, 391, 58 L. Ed. 274, 281, 282, 34 Sup. Ct. Rep. 114, the above mentioned declaration of the court in Mercantile Nat. Bank v. New York, 121 U. S. 138, 157, 30 L. Ed. 895, 902, 7 Sup. Ct. Rep. 826, including the citation from Evansville Nat. Bank v. Britton, was repeated, and it was pointed out that the rule of construction thus laid down had since been consistently adhered to. No decision of this court to which our attention is called has qualified that rule, or construed ¶5219 as leaving out of consideration the rate of state taxation imposed upon moneyed capital in the hands of individual citizens, invested in loans or securities for the payment of money, either for permanent or tempor-

ary purposes, where such moneyed capital comes into competition with that of the national banks."

As we understand these decisions, credits in the form of interest-bearing demands and money invested in loans or securities, whether such investments are of a permanent character or for a temporary purpose, and also shares of stock held by individuals in corporations the business of which is the making of profit by using their capital as money, that is, by loaning it at interest or investing it in interest-bearing securities, are deemed moneyed capital used in competition with national banks within the meaning of section 5219.

The court found that the assessed value of the shares of stock of defendant in each of the years 1921 and 1922 slightly exceeded $6,000,000, of which forty per centum was taken as the basis for taxation, and that the assessed value of money and credits in each of those years exceeded $400,000,000 in the State and $83,000,000 in Ramsey County. The court further found that the assessed value of money and credits in the City of St. Paul in each of those years exceeded $76,000,000, of which approximately two-thirds was held by corporations and one-third by individuals.

The court further found:

> "No material or substantial portion of the money and credits so listed and assessed consisted of moneyed capital in the hands of individual citizens of this State coming into competition with that of national banks or causing any inequality or discrimination in taxation as against national banks or their shareholders generally."

Defendant attacks this finding as not warranted by the evidence.

In the year 1921, the shares of stock in defendant bank

were taxed at the rate of 67 mills on the dollar on forty per centum of their value, equivalent to 26.8 mills on their full value. In the year 1922, they were taxed at the rate of 61.5 mills on forty per centum of their value, equivalent to 24.6 mills on their full value. Money and credits were taxed in those years at 3 mills on the dollar of their value. The rate of taxation upon the shares of the bank was several times the rate of taxation upon moneyed capital in the hands of individuals, and was clearly a discrimination forbidden by the federal statute unless we can say that it does not appear that any substantial part of such moneyed capital was used in competition with national banks.

Numerous tables are in evidence showing the nature and the amounts of the investments held by national banks, by State banks, by other corporations, and by individuals. These tables were prepared mainly, if not entirely, from official records, and their correctness is conceded. They are too voluminous to be summarized within any reasonable space. Some cover the entire State, some Ramsey County only.

Money and credits are listed for taxation under fifteen items, of which No. 4 is promissory notes, No. 5 is bonds exclusive of tax-exempt bonds and bonds secured by real estate mortgages on Minnesota land, and No. 10 is book accounts. The amount of these three items assessed in the County of Ramsey for the year 1921 was as follows: promissory notes held by corporations \$4,783,754, held by individuals \$2,481,446; bonds held by corporations \$694,820, held by individuals \$7,595,975; book accounts held by corporations \$34,206,204, held by individuals \$2,566,712. The amount of the same items assessed in Ramsey County for the year 1922 was as follows: promissory notes held by corporations \$5,176,615, held by individuals \$1,648,810; bonds held by corporations \$853,065, held by individuals \$9,931,955; book accounts held by corporations \$32,115,187,

held by individuals $2,502,235. Of course, the amount of these items held in the State is many times these sums. Defendant contends that these items, and also other items assessed as credits and aggregating large amounts, represent moneyed capital employed in competition with national banks. Plaintiff claims that the record does not require a finding that the funds invested in these credits come into competition with national banks within the meaning of section 5219. "The court is required to take judicial notice of the general conditions to which the law applies"; and defendant insists that the taxing laws, construed in the light of conditions generally known, show upon their face that they create a discrimination against national banks not permitted by the federal act. Although there is force in this contention, the present case does not rest upon it. It appears from the undisputed testimony drawn out by plaintiff that nearly all the above mentioned bonds held by individuals represent investments made by such individuals out of their surplus funds. The county assessor of Ramsey County, from whom this fact was elicited, was unable to state the character of the transactions which resulted in the promissory notes and book accounts held by individuals. Plaintiff urges that personal investments of surplus funds should not be deemed to have been made in competition with the banks, and that only a comparatively small part of promissory notes and book accounts is held by individuals. Surplus funds are moneyed capital; and the federal courts, if we understand their decisions correctly, have repeatedly held that placing such funds at interest in the form of ordinary loans or investing them in interest bearing securities, whether as permanent personal investments or for temporary purposes, brings them in competition with national banks within the meaning of section 5219 as it stood prior to the amendment of 1923.

Plaintiff also insists that the tax on national banks shares

is no greater in fact than the tax on credits. The argument advanced in support of this claim is that individuals are taxed at the rate of 3 mills on the dollar upon the full value of their credits without deducting their liabilities, and that, if banks were taxed at the same rate upon their resources without deducting their liabilities, the amount of the tax would be approximately the same as under the present law. Probably true. But the tax is not against the bank, but against the shareholders as individuals. They are taxed as individuals upon the full value of the item of property represented by their shares. They are allowed no deduction from such full value on account of their liabilities. In this particular the statute applies the same rule to them that it applies to those taxed under the money and credits act. See Des Moines National Bank v. Fairweather, 263 U. S. 103, 68 L. Ed. 191.

Plaintiff also contends that the tax imposed by the money and credits act does not discriminate against national banks within the meaning of the federal act for the reason that it was adopted for the purpose of increasing the revenue from such property and not for the purpose of favoring it as against the banks. We have no doubt that such was the purpose and that the act has resulted in a material increase of revenue from that source. It is a notorious fact, admitted everywhere, that the attempt to tax intangible personal property on the same basis as other property is, and always has been, a practical failure; that under such laws the great body of such property escapes taxation entirely for the reason that the holders will not report it and the assessors are unable to find it. Wisconsin recognizing that the former method of taxing personal property was a failure, sought to solve the problem of enforcing a tax against it, and also of complying with the requirements of section 5219, by taxing the shares of national banks and of all State concerns doing a business in the nature of bank-

ing on the basis of value, and by taxing all other personal property on the basis of income. The Wisconsin court, by a four to three decision rendered in April of this year, has sustained the validity of the tax imposed on the shares of national banks under this law. First National Bank v. City of Hartford, 203 N. W. 721. Plaintiff cites that case as authority for sustaining the tax imposed by our law; but the Wisconsin law differs so radically from the Minnesota law that the questions there presented for solution were not the same as those presented here. The Wisconsin court held, in effect, that under their law substantially all business operated in competition with national banks is required to operate under the State banking law and is subject to the same tax as the shares of national banks. As illustrative of the broad inclusive character of their banking act, the court notes that a department store which received deposits withdrawable on demand, on which it allowed interest and against which it charged purchases made by the depositors, came within the act; and that industries which sought to promote thrift by arranging to receive deposits from employes also came within the act. The court states that its conclusion that the tax is valid does not,

> "in any manner rest upon the argument that the income tax is an equivalent or substitute for the ad valorem tax levied upon the stock of national banking associations",

and adds that in that respect it agrees with the conclusion of the New York court in People ex. rel. v. Goldfogle, 234 N. Y. 345. In the New York case the law imposed a tax of one per centum on the book value of the shares of stock in all banks and banking associations; and an income tax on all residents of the State in lieu of other taxes on their intangible personal property which term included money, credits,

bonds, notes and evidences of debt. The New York court held the tax on national bank shares void on the ground that the income tax did not impose an equal burden on moneyed capital of individuals.

Several decisions of the Iowa court are called to our attention. The Iowa statute provides that the shares of national, State and savings banks, and of loan and trust companies shall be taxed at the same rate as other property on twenty per centum of their actual value; that all moneyed capital within the meaning of section 5219 of the U. S. Revised Statutes shall be taxed in the same manner and at the same rate; and that all other moneys and credits shall be taxed at the flat rate of 5 mills on the dollar of their actual value. The Statute has been held valid, and the questions considered in the cases cited are mainly whether the facts in a particular case show that moneyed capital within the meaning of section 5219 is, in fact, not taxed as such but at the flat rate. The gist of these cases is that investments in real estate mortgages do not come within the meaning of that section. First Nat. Bank v. Anderson, 196 Ia. 587, 192 N. W. 6; First Nat. Bank v. Board of Review, 201 N. W. 769; Citizens Nat. Bank v. Johnson, 202 N. W. 382.

The Nebraska act of 1921 provided that tangible property should be taxed at the full rate of the levy upon its true value; that intangible property, with certain exceptions, should be taxed at one-fourth of that rate on its full value; and that the shares of banks, banking associations, loan and trust, or investment companies should be taxed at the same rate as tangible property on their full value. The court held that under the rule announced in Merchants' Nat. Bank v. Richmond, Supra, the statute, as applied to national banks, was clearly invalid. State Bank v. Endres, 109 Neb. 753, 192 N. W. 322; Central National Bank v. Sutherland, 202 N. W. 428.

In Eddy v. First National Bank, 275 Fed. 550, involving the North Dakota law then in force, the circuit court of appeals of this circuit held that taxing the shares of the bank at 35.3 mills on the dollar, while money invested in interest-bearing notes, bonds and securities was taxed at 3 mills, was a discrimination forbidden by section 5219, although the reason for taxing money and credits at the 3 mill rate was because the attempt to tax them as other property had proven a failure.

In Minnehaha National Bank v. Anderson, 2 Fed. (2d) 897, bank shares were taxed at 34.93 mills under the South Dakota law while money and credits were taxed at 3 mills. In an opinion in which the questions presented and the authorities bearing thereon were carefully considered, the district court of the United States held the tax against national bank shares void. In the course of the opinion it is said, in substance, that loaning money on real estate and buying notes and bonds is an important and legitimate part of the banking business; that the bank was engaged in making real estate loans and disposing of them for the accrued interest and commissions; and that parties engaged in making such loans were in competition with the bank.

In State ex rel. v. Wallace, 48 N. D. 803, 187 N. W. 728, the North Dakota court construed their money and credits act then in force as applying to the stock of national banks, saying that if the legislature intended,

> "to continue taxing such stock at the local rate of levy, the statute would be unconstitutional as taxing the stock of national banks beyond the authority granted."

In First National Bank v. Eddy, 197 N. W. 290, the South Dakota court held that the statute taxing national bank shares at the same rate as real and personal property, while under the money and credits act other moneyed capi-

tal in the hands of individuals employed for investment, loan and discount was taxed at only 3 mills, created an unlawful discrimination within the meaning of section 5219.

It is perhaps not necessary to add that the positive limitation placed by the federal statute on the power granted to the States puts it beyond the power of the State to impose a higher rate of taxation upon such shares than it imposes upon moneyed capital in the hands of its citizens, although it imposes a low rate on such capital for the purpose of increasing the revenue therefrom.

Defendant also insists that capital invested in real estate mortgages, aggregating many millions of dollars, must be considered as competing capital for the reason that since the act of December 23, 1913, (38 Stat. 273), national banks have been authorized to invest a part of their funds in such mortgages, and the national banks of Minnesota had $19,000,000 invested therein in 1921 and $25,000,000 in 1922. Failure to tax mortgages at the same rate as bank shares was not a forbidden discrimination prior to this act. Hepburn v. School Directors, 90 U. S. 480, 23 L. Ed. 112; Adams v. Nashville, 96 U. S. 19, 24 L. Ed. 369; Merchants National Bank v. Mayor etc., 121 U. S. 138, 30 L. Ed. 895. Whether this act operated to change the former rule has not been passed upon by the United States Supreme Court so far as we are advised. Other decisions are conflicting. It is not necessary to determine the question here.

Defendant also insists that, although chapter 416 provides the same method for determining the value of the shares of national banks and the value of the moneyed capital of State banks, it discriminates in favor of State banks. This claim is based on the fact that in the case of State banks the tax is against the bank, not against the shareholders, and the bank is permitted to deduct its tax-exempt securities from the value of its property in fixing the amount subject to taxation, while in the case of national

banks the tax is against the shareholders, not against the bank, and tax-exempt securities are not deducted in fixing the value of such shares. We think that the method adopted is permissible under the doctrine of People v. Commissioners of Taxes, 71 U. S. (4 Wall.) 244, 18 L. Ed. 344; Mercantile Nat. Bank v. Mayor, etc., 121 U. S. 138, 30 L. Ed. 895; and Des Moines Nat. Bank v. Fairweather, 263 U. S. 103, 68 L. Ed. 191.

A few additional facts should properly be mentioned. Note brokers handle the commercial paper of manufacturers, wholesalers, and jobbers in an amount exceeding $100,000,000 per year. These brokers make loans to their customers and then sell the paper to banks and other investors. The larger part of it is placed in the east. The amount sold to individuals in Minnesota or retained by the brokers themselves does not appear, but would doubtless aggregate a considerable sum. A large amount of paper known as cattle loan paper is handled in Minnesota. Three of the larger companies dealing in such paper sold over $22,000,000 of it in 1921 and 1922, of which over $13,000,000 was sold to banks, corporations, firms and individuals in Minnesota. The amount shown to have been sold to individuals in Minnesota was slightly less than $1,000,000. Eleven business concerns to whom defendant loaned money had loans from their own officers and employees aggregating nearly $1,500,000. The total amount of such loans in either Ramsey County or the State is not shown.

Several witnesses called by defendant testified that in their opinion all the capital employed for the various purposes hereinbefore mentioned, and also for several other purposes not specifically mentioned, comes into competition with the banks, and gave in detail the reasons for their conclusions. The only witness called by plaintiff testified briefly that in his opinion there would be some competition

in some of the items among which he included book accounts, but that there would be little or no competition in other items as they did not represent a class of loans or credits in which the banks were dealing.

The undisputed and unquestioned facts shown by the record convince us that moneyed capital in the hands of individual citizens, taxed at the 3 mill rate and too large in amount to be overlooked or disregarded, is employed in competition with national banks within the meaning of section 5219 as interpreted by the Supreme Court of the United States. It necessarily follows that the tax assessed against defendant is beyond the power of the State to enforce.

The act of March 3, 1923, (42 Stat. 1499) made several changes in section 5219. To the provision that national banks' shares shall not be taxed at a greater rate than other moneyed capital in the hands of individuals, it added the following:

> "Provided, that bonds, notes, or other evidences of indebtedness in the hands of individual citizens not employed or engaged in the banking or investment business and representing merely personal investments not made in competition with such business, shall not be deemed moneyed capital within the meaning of this section."

It further provides in subdivision 4:

> "The provisions of section 5219 of the Revised Statutes of the United States as heretofore in force shall not prevent the legalizing, ratifying, or confirming by the States of any tax heretofore paid, levied, or assessed upon the shares of national banks, or the collection thereof, to the extent that such tax would be valid under said section."

Plaintiff calls our attention to McFarland v. Georgetown National Bank, 270 S. W. 995, in which the Kentucky court construed the provision last quoted as legalizing prior taxes which would be valid under section 5219 as amended by the proviso above quoted, but were invalid under that section as it stood when the tax was levied. We are unable to concur in this construction.

In Minnehaha Nat. Bank v. Anderson, 2 Fed. (2d), 897, the court said:

> "This amendment is not retroactive. The last provision, subdivision 4, conclusively determines that it was not intended to be retroactive . . . . Congress, however, by this amendment provided in effect, as I construe it that the State of South Dakota might pass a curative act, subjecting complainant to the tax of 3 mills, the same as other moneys named in section 5219, Rev. Stat. U. S. The State of South Dakota was thereby given the power, without conflicting with this statute, to confirm or ratify any tax theretofore levied upon the complainant to the extent of 3 mills, the amount that would be valid under the construction given section 5219, as theretofore in force."

We think the federal judge points out the purpose of this provision, and that it authorizes the State to provide for the collection of an invalid tax theretofore levied to the extent that such tax would be valid under section 5219 as that section existed at the time it was levied.

The order appealed from is reversed.

Stone, J. took no part.

STATE OF MINNESOTA, COUNTY OF RAMSEY.

District Court, Second Judicial District.

THE STATE OF MINNESOTA,

Plaintiff.

vs.

FIRST NATIONAL BANK OF ST. PAUL,

Defendant.

IN RE: Delinquent Personal Property
Tax for the year 1921,
File No. 146,399.

IN RE: Delinquent Personal Property
Tax for the year 1922,
File No. 152,054.

The above actions came on for trial on the 29th day of September, 1925. H. H. Peterson, County Attorney, R. A. McDonald, Assistant County Attorney, Clifford L. Hilton and Patrick J. Ryan appeared for the plaintiff, and

O'Brien, Horn & Stringer appeared for the defendant—the parties to said actions having by stipulation on file herein agreed that both of said actions be submitted to this court for decision without argument upon the printed record and the briefs of said parties in said actions on file with the Clerk of the Supreme Court of the State of Minnesota, the said printed record consisting of Volumes 1 and 2 is attached to and made a part of said stipulation.

Upon consideration of the testimony and the arguments of counsel, the court finds as

FACTS

I.

The defendant is and during the times named in the answers, has been a national banking association, duly organized and existing under and pursuant to the national banking laws of the United States of America, and having its principal office in the City of St. Paul, County of Ramsey and State of Minnesota.

II.

As such corporation said bank is an instrumentality of the United States of America, and there can be no taxation of the defendant, or its property or the shares of its capital stock by or under the authority of the State of Minnesota, or any political subdivision thereof, otherwise than in conformity with the terms and restrictions embodied in the assent given by Congress, as set forth in Section 5219, Revised Statutes of the United States, reading as follows:

"Nothing herein shall prevent all the shares in any association from being included in the valuation of the personal property of the owner or holder of such shares, in assessing taxes imposed by authority of the State within which the Association is located; but the legislature of each state may determine and direct the

manner and place of taxing all the shares of national banking associations located within the state, subject only to two restrictions, that the taxation shall not be at a greater rate than is assessed upon other moneyed capital in the hands of individual citizens of such state, and that the shares of any national banking association owned by non-residents of any state shall be taxed in such city or town where the bank is located, and not elsewhere. Nothing herein shall be construed to exempt real property of associations from either state, county or municipal taxes to the same extent, according to its value, as other real property is taxed."

III.

Th value of the shares of stock of banks in the State of Minnesota organized under the national banking laws of the United States and the value of the moneyed capital of state banks and mortgage loan companies organized under the laws of Minnesota, for the years 1921 and 1922, was determined pursuant to the provisions of Chapter 416, laws of 1921, and the unrepealed parts of Acts existing at the time of the enactment of the 1921 law. The taxing authorities, in determining the valuation of all such banks and companies for the years 1921 and 1922, applied the method theretofore applied for some years immediately prior to such determination which was the method provided by Sections 2017 and 2018, G. S. 1913; that is, the valuation was

determined by taking the amount of the capital stock, the amount of the surplus, the amount of undivided profits and other funds, and subtracting therefrom the amount of legally authorized investments in real estate, and forty (40) per cent of the balance or remainder, was taken as the basis for valuation and the amount to be assessed, and no deduction was claimed or made on account of bonds held by any such bank.

IV.

The capital stock, surplus, undivided profits and all other funds, less authorized investments in real estate of national banks in the State of Minnesota on the first day of May 1921, taken by the tax officers of the state in determining the value of the shares of such national banks, was $62,556,000, and upon said date said banks owned United States bonds and securities amounting to $41,190,000, which were included in the aggregate value of the shares of said banks for the purpose of taxation. (Defendant's Exhibit "M").

That on said May 1st, 1921, the total surplus, undivided profits, and other funds, less authorized investments in real estate, of national banks in Ramsey County, Minnesota, amounted to $12,658,000, and upon said date said banks in said county owned United States bonds and securities amounting to $11,148,000, which were included in determining the value of the shares of said banks for the purposes of taxation. (Defendant's Exhibit "M").

That on said May 1st, 1921, the capital, surplus, undivided profits and other funds exclusive of authorized investments in real estate owned by corporate banks in and organ-

ized under the laws of the State of Minnesota, amounted to $32,017,597.55, of which the sum of $13,369,840.32 consisted of United States Government Bonds and Securities. Defendant's Exhibit "C").

That on said May 1st, 1921, the total, capital, surplus and undivided profits, less authorized investments in real estate, held by such state banks located in Ramsey County, Minnesota, amounted to the sum of $1,840,540, of which the sum of $1,763,018.41 consisted of United States Government Bonds and Securities. (Defendant's Exhibit "S").

The capital stock, surplus, undivided profits and all other funds, less authorized investments in real estate of national banks in the State of Minnesota on the first day of May, 1922, taken by the tax officers of the state in determining the value of the shares of such national banks was $62,601,000, and upon said date said banks owned United States Bonds and Securities amounting to $49,505,000, and which were included in determining the aggregate value of the shares of said banks for the purpose of taxation. (Defendant's Exhibit "M").

That on said May 1st, 1922, the total surplus, undivided profits, and other funds, less authorized investments in real estate, of national banks in Ramsey County, Minnesota, amounted to $12,891,000, and upon said date said banks in said County owned United States Bonds and Securities amounting to $18,236,000, and which were included in determining the aggregate value of the shares of said banks for the purpose of taxation. (Defendant's Exhibit "M").

That on said May 1st, 1922, the capital, surplus, undivided profits and other funds, less authorized investments in real

estate owned by corporate banks in and organized under the laws of the State of Minnesota, amounted to $31,068,116.36, of which the sum of $9,830,679.57 consisted of United States Government Bonds and Securities. (Defendant's Exhibit "E").

That on said May 1st, 1922, the total, capital, surplus and undivided profits, less authorized investments in real estate, owned by such state banks located in said Ramsey County, Minnesota, amounted to the sum of $1,615,915.19, of which the sum of $1,290,477.06 consisted of United States Government Bonds and Securities. (Defendant's Exhibit "S").

That on said May 1st, 1921, the total capital, surplus and undivided profits of the defendant, including in the computation as assets Bonds and Securities of the United States Government in the sum of $3,453,665.06 but excluding authorized investments in real estate, was $6,002,218.01 and on May 1st, 1922, the total capital, surplus and undivided profits of the defendant including in the computation as assets Bonds and Securities of the United States Government in the sum of $11,343,234.95, but excluding authorized investments in real estate was $6,528,104.06.

V.

The total loans made by national banks in the State of Minnesota secured by loans on real estate in Minnesota and outstanding on May 1st, 1921, was $19,713,000, and on May 1st, 1922 was $25,409,000,— the value of all such loans being included in the amount taken by the tax authorities of the State of Minnesota to determine the values of the shares of said national banks.

The total loans secured by mortgages on real estate in the State of Minnesota made during the year 1921 amounted to at least $184,560,000, and to a larger sum for the year 1922.

That of the mortgage loans so made in Ramsey County during the year 1921, loans of at least $6,000,000 were made by individual citizens of Ramsey County and in the year 1922 such mortgage loans to the amount of at least $6,000,000 were made by individual citizens of Ramsey County.

That the only tax paid upon any of said mortgages held by individuals was the tax provided by Section 2302, General Statutes 1913 as amended by Chapter 73 Laws of 1917, and Chapter 445 Laws of 1921, of fifteen cents upon each $100 or fraction thereof, of the principal when the loan matures within five years and sixty days from its date, and twenty-five cents for each $100 or fraction thereof when the loan matures at a later date.

VI.

The full and true value of the shares of the capital stock of the defendant for the year 1921, as so determined, after deducting real estate, was $6,002,218.01, and said shares were assessed at forty (40) per cent of such full and true value, being $2,400,887.20, which was taxed at a rate of 67 mills, and the amount levied as taxes was $160,859.54. The full and true value of the shares of the capital stock of the defendant for the year 1922, as so determined, after deducting real estate, was $6,528,104.06, and said shares were assessed at forty (40) per cent of such full and true value, being $2,611,240, which was taxed at a rate of 61½ mills and the amount levied as taxes was $160,591.26.

VII.

"Money" and "credits" as defined by Section 798 Revised Laws 1905 (now Section 2337, General Statutes, 1923) were returned and assessed for the years 1921 and 1922 for the State of Minnesota, and for the County of Ramsey, as follows:

STATE

1921	1922
$422,745,839.	$400,688,948.

COUNTY

83,965,268.	$87,796,840.

Such money and credits are exempted from taxation other than three mills of the fair value thereof without deduction of debts from credits listed for taxation. Such return and assessment did not include money or credits belonging to incorporated banks situated in this State nor any indebtedness on which tax is paid under Sections 2301 to 2309, General Statutes 1923, nor bonds exempt by law.

The total amount of such money and credits as listed and assessed in the City of St. Paul, in the County of Ramsey, in the years 1921 and 1922 by corporations and individuals in cases where the return exceeded Four Thousand Dollars ($4,000), was as follows:

	1921.	1922.
Corporations	$51,464,497.	$48,839,758.
Individuals	25,170,614.	27,825,885.
Total	$76,635,111.	$76,665,643.

the same being approximately 91 per cent of the total amount returned and listed as money and credits in the years 1921 and 1922.

VIII.

"That at the time of the assessment of said taxes for the years 1921 and 1922, a substantial and relatively material portion of the money and credits so listed and assessed in said Ramsey County consisted of moneyed capital in the hands of individual citizens of said county coming into competition with the business of national banks in said county, and with the business of said defendant."

A comparative statement showing the condition of the defendant on the first day of May 1921 and on the first day of May 1922 is as follows:

COMPARATIVE STATEMENT SHOWING CONDITION OF THE FIRST NATIONAL BANK OF ST. PAUL, MAY 1, 1921, AND MAY 1, 1922.

	May 1, 1921.	May 1, 1922.
RESOURCES.		
Loans and Discounts	$30,459,384.24	$26,489,898.41
Overdrafts	8,007.80	2,709.96
Customers Liability Account of Acceptances	....	....
U. S. Government Securities Owned	3,453,665.06	11,343,234.95
Other Bonds, Stocks and Securities	1,428,272.84	2,710,730.03
Banking House Furniture and Fixtures	556,199.42	533,606.46
Other Real Estate Owned	....	....
Lawful Reserve with Federal Reserve Bank	2,118,449.30	2,786,649.41
Items with Federal Reserve Bank for Collection	848,206.55	426,459.97
Cash and Amount Due from National Banks	4,777,046.45	5,828,689.21
Amount Due from State Banks and Trust Companies	1,691,372.73	2,177,737.15
Exchanges for Clearing House	627,612.48	524,821.58
Checks on Other Banks in Same Place	192,384.40	187,943.62
Outside Checks and Cash Items	384,768.82	375,887.25
Redemption Fund	....	....
Other Assets	26,375.12	72,762.34
Total Resources	$46,571,745.21	$53,461,130.34
LIABILITIES.		
Capital Stock Paid In	$ 3,000,000.00	$ 3,000.000.00
Surplus	2,000,000.00	2,000,000.00

Undivided Profits, Less Expenses, Int. and taxes	1,371,847.48	1,394,585.04
National Bank Notes Outstanding	....	....
Amount due Federal Reserve Bank	....	....
Amount due National Banks	4,379,197.01	5,311,484.91
Amount due State Banks, Bankers and Trust Cos.	4,127,603,59	4,954,331.39
Certified Checks Outstanding	44,000.86	27,591.07
Cashier Checks Outstanding	182,771.71	188,650.54
Demand Deposits	21,039,275.61	28,547,905.22
Time Deposits	5,635,010.50	5,683,908.56
U. S. Deposits	1,386,419.16	1,606,680.56
U. S. Bonds Borrowed	2,693,500.00	....
Other Bonds and Securities Borrowed	....	....
Bills Payable and Rediscounts	....	....
Letters of Credit and Travelers checks issued for cash	....	....
Acceptances Executed for Customers	....	....
Acceptances Executed by other Banks	....	....
Other Liabilities	712,119.29	745,993.05
Total Liabilities	$46,571,745.21	$53,461,130.34

	May 1, 1921.	May 1, 1922.
Total Capital Surplus and Undivided Profits	$ 6,371,847.48	$ 6,394,585.04
Total Banking House Furniture and Fixtures	556,199.42	533,606.46
Total U. S. Bonds and Securities	3,453,665.06	11,343,234.95
Total other Bonds, Stocks and Securities	1,428,272,84	2,710,730.03
Total Deposits	36,794,278.44	46,320,652.25

As Conclusions of Law the court finds that "the State of Minnesota is not entitled to judgment against the defendant for the amount claimed as taxes for the years 1921 and 1922, as herein recited, or in any amount, and that defendant is entitled to judgment that the levy, assessment and extension of said tax for each of said years be cancelled, annulled and set aside."

Let Judgment be entered accordingly.

Dated September 29, 1925.

CHARLES BECHHOEFER,

Judge of District Court.

STATE OF MINNESOTA, COUNTY OF RAMSEY,

District Court, Second Judicial District.

THE STATE OF MINNESOTA,

Plaintiff.

-vs-

FIRST NATIONAL BANK OF ST. PAUL,

Defendant.

IN RE: Delinquent Personal Property
Tax for the year 1921,
File No. 146,399.

IN RE: Delinquent Personal Property
Tax for the year 1922,
File No. 152,054.

JUDGMENT.

The above entitled matter having come to be heard before this court on the 29th day of September, 1925, and the court having on said day made and filed its findings of fact and conclusions of law herein, now on motion duly made and pursuant to said findings of fact and conclusions of law, it is hereby

ORDERED, ADJUDGED AND DECREED, That the State of Minnesota is not entitled to judgment against the

defendant for the amount claimed as taxes for the years 1921 and 1922, as in said findings and conclusions recited, or in any amount, and the levy, assessment and extension of said tax for each of said years be and are cancelled and set aside.

Dated this 29th day of September, 1925.

N. C. ROBINSON,
Clerk of District Court.

STATE OF MINNESOTA, COUNTY OF RAMSEY.
District Court, Second Judicial District.

THE STATE OF MINNESOTA,
Plaintiff.

vs.

FIRST NATIONAL BANK OF ST. PAUL,
Defendant.

IN RE: Delinquent Personal Property
Tax for the year 1921,
File No. 146,399.

IN RE: Delinquent Personal Property
Tax for the year 1922,
File No. 152,054.

YOU WILL PLEASE TAKE NOTICE, That the above named plaintiff, State of Minnesota, appeals to the Supreme Court of the State of Minnesota, from that certain judgment in favor of the above named defendant, made and entered in the above named court on the 29th day of September, 1925.

Dated this 29th day of September, 1925.

CLIFFORD L. HILTON,
Attorney General.

HARRY H. PETERSON,
County Attorney.

GEORGE A. YOUNGQUIST,
Assistant Attorney General.

ROY A. MacDONALD,
Assistant County Attorney.

PATRICK J. Ryan,
Attorneys for State of Minn.

To:

O'BRIEN, HORN & STRINGER,
Attorneys for Defendant.

And

N. C. ROBINSON,
Clerk of District Court.

STATE OF MINNESOTA, IN SUPREME COURT.

THE STATE OF MINNESOTA,

Appellant

vs.

FIRST NATIONAL BANK OF ST. PAUL,

Respondent.

IN RE: Delinquent Personal Property
Tax for the year 1921,
File No. 146,399.

IN RE: Delinquent Personal Property
Tax for the year 1922,
File No. 152,054.

ASSIGNMENT OF ERROR.

The above named appellant having appealed to this court from the judgment of the District Court of Ramsey County, Minnesota, in the above entitled matter, and it having been stipulated that said appeal be heard on the briefs heretofore filed herein on the appeal of the above named respondent, and there being, therefore, no assignments of error on the part of this appellant, the following errors are hereby assigned:

I.

The Court erred in making the following finding of fact:

"That at the time of the assessment of said taxes for the years 1921 and 1922, a substantial and relatively material portion of the money and credits so listed and assessed in said Ramsey County consisted of moneyed capital in the hands of individual citizens of said county coming into competition with the business of national banks in said county, and with the business of said defendant."

II.

The Court erred in arriving at the following conclusions of law:

"The State of Minnesota is not entitled to judgment against the defendant for the amount claimed as taxes for the years 1921 and 1922, as herein recited, or in any amount, and that defendant is entitled to judgment that the levy, assessment and extension of said tax for each of said years be cancelled, annulled and set aside."

III.

The Court erred in awarding judgment in favor of the Respondent.

CLIFFORD L. HILTON,
G. A. YOUNGQUIST,
HARRY H. PETERSON,
ROY A. MacDONALD,
PATRICK J. RYAN,
Attorneys for Appellant.

Docket 2632

STATE OF MINNESOTA,
Appellant.

25169 vs.

FIRST NATIONAL BANK OF ST. PAUL,
Respondent.

Endorsed. Filed October 16, 1925.
Grace F. Kaercher, Clerk.

In Re: Delinquent Personal Property Tax for the year 1921, File No. 146,399.

In Re: Delinquent Personal Property Tax for the year 1922, File No. 152,054.

OPINION

PER CURIAM:

This is an appeal by the plaintiff from a judgment of Ramsey County District Court entered in favor of defendant and against plaintiff in an action brought by the plaintiff to recover alleged delinquent personal property tax for the year 1921 and for the year 1922. The questions presented are those decided by this court on an appeal by the defendant from an order denying a new trial, which decision of this court is reported in —— Minn. ——, 204 N. W. 874. Upon authority of the decision last referred to the judgment in this action is affirmed.

Judgment affirmed.

STATE OF MINNESOTA, SUPREME COURT

STATE OF MINNESOTA,
Plaintiff and Appel`ant.

vs.

FIRST NATIONAL BANK OF ST. PAUL,
Defendant and Respondent.

Pursuant to an order of Court heretofore duly made and entered in this cause it is determined and adjudged that the Judgment of the Court below, herein appealed from, to-wit, of the District Court within and for the County of Ramsey, be and the same hereby is in all things affirmed.

Dated and signed Nov. 25th, A. D. 1925.

BY THE COURT.
Attest.
GRACE F. KAERCHER,
Clerk.

CERTIFICATE

I, Grace Kaercher, Clerk of the Supreme Court of the State of Minnesota, do hereby certify that the above and foregoing is a true, full, correct and complete transcript of the Record, Assignment of Error, and all proceedings in case No. 2,632, wherein the State of Minnesota is plaintiff, and the First National Bank of St. Paul is defendant, as fully as the same remains on file and of record in my office at St. Paul, Minnesota; and that the Exhibits hereto annexed constitute a true, full, correct and complete transcript of said Exhibits as the same are referred to in said record.

WITNESS, My hand officially, and the seal of said court at St. Paul, Minnesota, the 27th day of November, A. D. 1925.

[Seal of the Supreme Court, State of Minnesota.]

GRACE F. KAERCHER,
Clerk of Supreme Court of State
of Minnesota.

STATE'S EXHIBIT 1—1921.

LIST OF DELINQUENT PERSONAL PROPERTY TAXES 1921.

STATE OF MINNESOTA }
} ss.
COUNTY OF RAMSEY }

To the Clerk of the District Court of the County of Ramsey, Minnesota:

I, Kelsey M. Chase, Treasurer of Ramsey County, do hereby certify that the following is a true and correct list of all money and credits and Personal Property Taxes within said County of Ramsey, State of Minnesota for the year 1921 remaining unpaid and delinquent on the 1st day of April, 1922, and the penalties accrued therein, to-wit:

* * * * * * * * *

Party Assessed	Year	Valuation	Tax	Penalty	Total
First Nat. Bank	1921	$2,437,442	$163,308.62	$16,330.81	$179,639.48

STATE'S EXHIBIT 1—1922.

LIST OF DELINQUENT PERSONAL PROPERTY TAXES 1922

STATE OF MINNESOTA }
COUNTY OF RAMSEY } ss.

To the Clerk of the District Court of the County of Ramsey, Minnesota:

I, Elsa M. Obst, Treasurer of Ramsey County, do hereby certify that the following is a true and correct list of all money and credits and Personal Property Taxes within said County of Ramsey, State of Minnesota for the year 1922 remaining unpaid and delinquent on the 1st day of April, 1923, and the penalties accrued therein, to-wit:

* * * * * * * * *

Party Assessed	Year	Valuation	Tax	Penalty	Total
First Nat. Bank	1922	$2,611,240	$160,591.26	$16,059.13	$ 176,650.39

EXHIBIT A

* * * * * * * * *

TAX RATE PER $1,000.00 IN RAMSEY COUNTY, MINN., FOR 1921.

Assessment Districts	State			County		City, Villages and Towns					Total
	Revenue	School	Teachers Pension	Revenue	Local 1 Mill	Revenue	School	Interest and Sinking Fund	Road and Bridge	Road Drag	
St. Paul, 1st Division..	2.95	1.23		15.42	1.00	27.93	14.07	4.40			67.00
St. Paul, 2nd Division..	2.95	1.23		15.42	1.00	27.93	14.07	4.10			66.70
New Brighton	2.95	1.23	0.05	15.42	1.00	27.45					*48.10
North St. Paul	2.95	1.23	0.05	15.42	1.00	28.85	39.10	4.20			92.80
White Bear Village ...	2.95	1.23	0.05	15.42	1.00	28.85	45.50	1.80			96.80
Mounds View	2.95	1.23	0.05	15.42	1.00	.85			2.30	1.00	*24.80
New Canada	2.95	1.23	0.05	15.42	1.00	.65			3.50	1.00	*25.80
Rose	2.95	1.23	0.05	15.42	1.00	.45		.35	1.75	1.00	*24.20
White Bear Town	2.95	1.23	0.05	15.42	1.00	.75			3.20	1.00	*25 60

*Special School Tax Not Included.

Special School District Rates

No. H	
1	47.00
2	27.00
3	31.00
4	9.00
5	45.50
6	34.50
7	15.00
8	8.50
8-2	19.30
10	11.50
12	6.30
14	5.70
15	18.30
16	6.70
17	22.50
18	13.30
19	13.50
20	16.10
21	18.90
23	11.20
24	10.90
25	8.80
26	31.40
28	7.20
29	25.60
31	26.90
32	8.50
33	14.00
35	14.40

EXHIBIT B.

TAX RATES PER $1,000 IN RAMSEY COUNTY, MINN., FOR 1922.

Assessment Districts	State			County		City, Villages and Towns					Total
	Revenue	School	Teachers Pension	Revenue	One Mill	Revenue	School	Interest and Sinking Fund State Loan	Road and Bridge	Road Drag	
St. Paul, 1st Division..	2.90	1.23		8.77	1.00	29.83	15.25	2.52			61.50
St. Paul, 2nd Division..	2.90	123		8.77	1.00	29.83	15.25	2.22			61.20
New Brighton.........	2.90	1.23	0.05	8.77	1.00	28.05					*42.00
North St. Paul........	2.90	1.23	0.05	8.77	1.00	6.65	31.80	4.20			56.60
White Bear Lake......	2.90	1.23	0.05	8.77	1.00	22.55	51.70	14.40			102.60
Mounds View	2.90	1.23	0.05	8.77	1.00	.90			2.45	1.00	*18.30
New Canada..........	2.90	1.23	0.05	8.77	1.00	.60			3.65	1.00	*19.20
Rose	2.90	1.23	0.05	8.77	1.00	1.00			1.05	1.00	*17.00
White Bear Town.....	2.90	1.23	0.05	8.77	1.00	.80			2.25	1.00	*18.00

Special School District Rates	
No. 1	49.30
No. H2	25.40
No. 3	37.70
No. 4	10.00
No. 5	51.70
No. 6	28.30
No. 7	20.00
No. 8	9.50
No. 8½	17.90
No. 10	18.60
No. 12	7.40
No. 14	14.50
No. 15	22.00
No. 16	7.40
No. 17	28.50
No. 18	11.60
No. 19	18.30
No. 20	19.40
No. 21	21.00
No. 23	14.60
No. 24	11.20
No. 25	10.80
No. 26	27.00
No. 28	13.30
No. 29	30.00
No. 31	30.20
No. 32	9.20
No. 33	22.20
No. 35	15.30

*—Special school tax not included.

TAX RATES IN MILLS, EFFECTIVE IN RAMSEY COUNTY, 1911-1923.

1911	1912	1913	1914	1915	1916	1917	1918	1919	1920	1921	1922	1923
29.30	28.20	32.30	41.00	46.60	42.60	44.00	47.00	62.50	71.50	67.00	61.50	72.40

EXHIBIT C.

Call No. 155

COMPARATIVE ABSTRACT

Showing condition of State Banks, Savings Banks and Trust Companies in MINNESOTA at close of business on dates named as compiled by S. B. Duea, Superintendent of Banks.

Resources	1160 State Banks June 30, 1921	9 Savings Banks June 30, 1921	26 Trust Companies June 30, 1921	Consolidated June 30, 1921	Consolidated Feb. 21, 1921	Increase	Decrease
Guaranty Fund	$............	$............	$ 2,067,183.50	$ 2,067,183.50	$ 2,013,604.52	$ 53,578.98	$............
Loans and Discounts, Secured and Unsecured	335,547,644.30	17,180,556.34	15,273,198.14	368,001,398.78	367,360,308.30	641,090.48	....
Overdrafts	1,122,253.76	....	2,771.15	1,125,024.91	970,846.57	154,178.34	....
U. S. Bonds	13,369,840.32	....	497,087.59	13,866,927.91	16,830,235.11	....	2,963,307.20
Other Bonds and Securities	16,060,513.90	41,244,030.50	13,068,244.76	70,372,789.16	68,602,650.14	1,770,139.02	....
Federal Reserve Stock	139,850.00	....	17,100.00	156,950.00	138,500.00	18,450.00	....
Banking House, Furniture and Fixtures	10,580,445.40	391,316.80	140,053.67	11,111,815.87	10,880,389.33	231,426.54	....
Other Real Estate	2,288,125.22	33,414.92	410,566.36	2,732,106.50	2,478,918.55	253,187.95	....
Due from Federal Reserve Bank	2,206,629.87	....	....	2,206,629,87	1,906,881.95	299,747.92	....
Accounts Collectible	....	....	1,429,938.59	1,429,938.59	1,488,555.73	....	58,617.14
Due from Banks and Cash on Hand	34,525,113.49	2,952,294.81	3,595,913.08	41,073,321.38	44,065,906.25	....	2,992,584.87
Trust Funds in Cash and in banks	....	....	4,502,868.52	4,502,868.52	2,153,552.86	2,349,315.66	....
Checks and Cash Items	2,185,903.70	124,843.65	....	2,310,747.35	2,398,085.79	....	87,338.44
Paid out for Expense in Excess of Earnings	1,035,756.37	....	17,363.97	1,053,120.34	334,038.96	719,081.38	....
Other Resources	357,281.64	54,475.28	110,314.30	522,071.22	1,638,046.18	....	1,115,974.96
Totals	$419,419,357.97	$61,980,932.30	$41,132,603.63	$522,532,893.90	$523,260,520.24	$6,490,196.27	$7,217,822.61

Liabilities

Capital Stock	$ 28,529,500.00	$ *350,000.00	$ 7,647,907.42	$ 36,527,407.42	$ 36,066,626.32	$ 460,781.10	$..........
Surplus	11,668,502.68	1,356,000.00	2,281,644.04	15,306,146.72	15,264,010.35	42,136.37	....
Undivided Profits, Net	2,400,040.27	1,434,690.58	1,084,309.74	4,919,040.59	5,075,679.19	....	156,638.60
Reserved for Taxes and Interest	213,214.84	....	236,801.51	450,016.35	678,805.98	....	228,789.63
Reserved for Depreciation	298,273.26	7,835.50	16,890.93	322,999.69	341,897.53	....	18,897.84
Notes Rediscounted and Bills Payable	28,194,339.10	150,000.00	1,413,321.66	29,757,660.76	29,807,405.94	....	49,745.18
Bonds Bought but not paid for	....	....	217,000.00	217,000.00	161,000.00	56,000.00	....
Dividends Unpaid	140,254.46	....	....	140,254.46	102,354.10	37,900.36	....
Deposits Subject to Check	96,754,948.13	....	6,759,532.09	103,514,480.22	97,755,482.55	5,758,997.67	....
Demand Certificates	685,926.78	....	214,901.49	900,828.27	662,826.96	238,001.31	....
Certified Checks	286,876.55	....	27,185.41	314,061.96	205,950.61	108,111.35	....
Cashier's Checks	4,043,066.54	2,701.26	263,016.55	4,308,784.35	4,625,468.88	....	316,684.53
Accounts and Claims Payable	....	....	3,135,164.67	3,135,164.67	2,239,505.59	895,659.08	....
Due to Banks	4,700,447.28	....	273,418.98	4,973,866.26	5,787,963.00	....	814,096.74
Savings Deposits	56,834,604.71	58,603,654.51	7,886,712.15	123,324,971.37	123,958,376.53	....	633,405.16
Time Certificates	184,405,960.23	51,520.00	4,514,979.92	188,972,460.15	195,697,238.75	....	6,724,778.60
Trust Deposits	....	....	4,876,244.71	4,876,244.71	3,097,195.09	1,779,049.62	....
Other Liabilities	263,403.14	24,530.45	283,572.36	571,505.95	1,732,732.87	....	1,161,226.92
Totals	$419,419,357.97	$61,980,932.30	$41,132,603.63	$522,532,893.90	$523,260,520.24	$9,376,636.86	$10,104,263.20

*Two Stock Companies.

Total Deposits	$434,461,116.42
Net Increase in Deposits	328,754.36
Reserve on Hand (Banks and Trust Companies)	44,641,921.26
Amount of Reserve Required by Law	30,429,109.74

DEFTS. EX. D.

Call No. 157

COMPARATIVE ABSTRACT

Showing condition of State Banks, Savings Banks and Trust Companies in MINNESOTA at close of business on dates named as compiled by the Dept. of Banking, S. B. Duea, Superintendent of Banks.

Resources	1146 State Banks Dec. 31, 1921	9 Savings Banks Dec. 31, 1921	27 Trust Companies Dec. 31, 1921	Consolidated Dec. 31, 1921	Consolidated Oct. 6th, 1921	Increase	Decrease
Guaranty Fund	$...........	$...........	$ 2,197,183.50	$ 2,197,183.50	$ 2,283,083.50	$..........	$ 85,900.00
Loans and Discounts, Secured and Unsecured	315,181,728.47	16,753,920.56	15,857,741.47	347,793,390.50	356,066,658.26	....	8,273,267.76
Overdrafts	805,250.60	....	1,017.62	806,268.22	1,168,941.56	....	362,673.34
U. S. Bonds	10,004,241.06	....	809,187.32	10,813,428.38	13,556,154.14	....	2,742,725.76
Other Bonds and Securities	15,895,366.85	41,066,619.06	13,415,157.21	70,377,143.12	71,186,084.19	....	808,941.07
Federal Reserve Stock	128,700.00	....	18,000.00	146,700.00	176,192.28	....	29,492.28
Banking House, Furniture and Fixtures	10,443,700.65	387,752.21	338,490.34	11,169,943.20	11,379,965.22	....	210,022.02
Other Real Estate	2,563,787.94	58,434.90	585,741.38	3,207,964.22	2,834,613.00	373,351.22	....
Due from Federal Reserve Bank	2,132,899.85	....	....	2,132,899.85	2,318,635.89	....	185,736.04
Accounts Collectible	....	....	1,651,683.56	1,651,683.56	1,509,439.83	142,243.73	....
Due from Banks and Cash on Hand	35,156,238.60	3,265,704.21	2,877,975.41	41,299,918.22	38,472,275.97	2,827,642.25	....
Trust Funds in Cash and in banks	....	....	4,159,639.36	4,159,639.36	7,643,017.62	....	3,483,378.26
Checks and Cash Items	2,553,726.44	267,836.04	....	2,821,562.48	2,126,433.71	695,128.77	....
Paid out for Expense in Excess of Earnings	357,030.14	....	2,753.28	359,783.42	1,543,738.65	....	1,183,955.23
Other Resources	442,077.73	4,158.35	41,095.10	487,331.18	382,345.04	104,986.14	....
Totals	$395,664,748.33	$61,804,425.33	$41,955,665.55	$499,424,839.21	$512,647,578.86	$4,143,352.11	$17,366,091.76

Liabilities

Capital Stock	$ 27,839,500.00	$ *350,000.00	$ 8,079,769.63	$ 36,269,269.63	$ 36,659,142.42	$..........	$ 389,872.79
Surplus	11,410,017.30	1,456,000.00	2,277,521.78	15,143,539.08	15,114,760.57	28,778.51	....
Undivided Profits, Net	4,108,655.20	1,355,379.07	1,239,689.68	6,703,723.95	4,722,747.41	1,980,976.54	....
Reserved for Taxes and Interest	304,150.34	....	391,874.53	696,024.87	488,725.14	207,299.73	....
Reserved for Depreciation	307,118.99	7,835.50	34,304.43	349,258.92	742,732.75	....	393,473.83
Notes Rediscounted and Bills Payable	27,814,685.89	155,000.00	1,258,400.00	29,228,085.89	30,012,156.09	....	784,070.20
Bonds Bought but not paid for	....	....	441,000.00	441,000.00	321,600.00	119,400.00	....
Dividends Unpaid	161,207.76	....	....	161,207.76	54,153.82	107,053.94	....
Deposits Subject to Check	84,132,444.60	....	6,621,467.40	90,753,912.00	97,376,612.07	....	6,622,700.07
Demand Certificates	441,698,51	....	121,431.32	563,129.83	599,235.56	....	36,105.73
Certified Checks	190,576.60	....	42,482.61	233,059.21	279,648.02	....	46,588.81
Cashier's Checks	4,243,952.27	1,493.02	396,906.83	4,642,352.12	4,743,417.19	....	101,065.07
Accounts and Claims Payable	....	....	3,071,705.81	3,071,705.81	2,902,679.11	169,026.70	....
Due to Banks	4,287,378.81	1,377.48	530,068.97	4,818,825.26	5,273,537.08	....	454,711.82
Savings Deposits	56,736,715.71	58,416,864.55	9,720,801.21	124,874,381.47	123,893,918.08	980,433.39	....
Time Certificates	173,244,176.49	53,953.90	3,043,029.92	176,341,160.31	181,294,850.92	....	4,953,690.61
Trust Deposits	....	....	4,598,644.44	4,598,644.44	7,829,024.57	....	3,230,380.13
Other Liabilities	442,469.86	6,521.81	86,566.99	535,558.66	338,608.06	196,950.60	....
Totals	$395,664,748.33	$61,804,425.33	$41,955,665.55	$499,424,839.21	$512,647,578.86	$3,789,919.41	$17,012,659.06

*Two Stock Companies.

Total Deposits	$410,058,378.21
Net Decrease in Deposits	14,188,728.21
Reserve on Hand (Banks and Trust Companies)	44,432,818.07
Amount of Reserve Required by Law	28,232,497.09

DEFTS. EX. E.

Call No. 158

COMPARATIVE ABSTRACT

Showing condition of State Banks, Savings Banks and Trust Companies in MINNESOTA at close of business on dates named as compiled by the Department of Banking, R. B. Rathbun, Superintendent of Banks.

Resources	1144 State Banks April 7, 1922	9 Savings Banks April 7, 1922	26 Trust Companies April 7, 1922	Consolidated April 7, 1922	Consolidated Dec. 31, 1921	Increase	Decrease
Guaranty Fund	$............	$...........	$ 2,140,733.50	$ 2,140,733.50	$ 2,197,183.50	$...........	$ 56,450.00
Loans and Discounts, Secured and Unsecured..............	308,043,184.05	14,931,964.02	16,476,959.49	339,452,107.56	347,793,390.50	....	8,341,282.94
Overdrafts	877,827.67	....	1,367.91	879,195.58	806,268.22	72,927.36	....
U. S. Bonds	9,830,679.57	....	1,814,333.46	11,645,013.03	10,813,428.38	831,584.65	....
Other Bonds and Securities.....	16,586,732.97	44,515,048.06	13,055,363.19	74,157,144.22	70,377,143.12	3,780,001.10	....
Federal Reserve Stock	145,386.57	....	18,000.00	163,386.57	146,700.00	16,686.57	....
Banking House, Furniture and Fixtures	10,498,507.94	357,726.78	387,421.26	11,243,655.98	11,169,943.20	73,712.78	....
Other Real Estate..............	3,122,242.31	59,297.00	636,890.22	3,818,429.53	3,207,964.22	610,465.31	....
Due from Federal Reserve Bank.	2,182,257.43	....	....	2,182,257.43	2,132,899.85	49,357.58	....
Accounts Collectible	....	....	1,498,805.19	1,498,805.19	1,651,683.56	....	152,878.37
Due from Banks and Cash on Hand	38,861,835.32	3,741,610.69	4,871,640.06	47,475,086.07	41,2[illegible]9,918.22	6,175,167.85	....
Trust Funds in Cash and in banks	....	....	4,894,695.44	4,894,695.44	4,159,639.36	735,056.08	....
Checks and Cash Items	2,882,236.64	80,172.64	....	2,962,409.28	2,821,562.48	140,846.80	....
Paid out for Expense in Excess of Earnings	879,825.44	34.06	12,421.05	892,280.55	359,783.42	532,497.13	....
Other Resources	154,620.63	4,343.46	27,421.21	186,385.30	487,331.18	....	300,945.88
Totals	$394,065,336.54	$63,690,196.71	$45,836,051.98	$503,591,585.23	$499,424,839.21	$13,018,303.21	$8,851,557.19

Liabilities

Capital Stock	$ 27,669,500.00	$ *350,000.00	$ 8,054,380.44	$ 36,073,880.44	$ 36,269,269.63	$	$ 195,389.19
Surplus	11,574,226.00	1,506,000.00	2,335,521.21	15,415,747.21	15,143,539.08	272,208.13	....
Undivided Profits, Net	2,322,898.30	1,608,757.88	1,434,972.35	5,366,628.53	6,703,723.95	....	1,337,095.42
Reserved for Taxes and Interest	181,190.14	4,244.51	317,843.11	503,277.76	696,024.87	....	192,747.11
Reserved for Depreciation	290,891.86	7,835.50	11,683.29	310,410.65	349,258.92	....	38,848.27
Notes Rediscounted and Bills Payable	22,075,657.19	100,000.00	379,322.63	22,554,979.82	29,228,085.89	....	6,673,106.07
Bonds Bought but not Paid for	....	....	....	....	441,000.00	....	441,000.00
Dividends Unpaid	34,698.48	....	....	34,698.48	161,207.76	....	126,509.28
Deposits Subject to Check	87,167,443.55	....	7,959,674.04	95,127,117.59	90,753,912.00	4,373,205.59	....
Demand Certificates	309,201.70	....	121,787.40	431,080.10	563,129.83	....	132,049.73
Certified Checks	188,376.13	....	75,680.68	264,056.81	233,059.21	30,997.60	....
Cashier's Checks	3,753,936.48	8,129.70	351,631.65	4,113,697.83	4,642,352.12	....	528,654.29
Accounts and Claims Payable	....	....	3,221,360.74	3,221,360.74	3,071,705.81	149,654.93	....
Due to Banks	5,496,203.84	218.60	241,556.52	5,737,978.96	4,818,825.26	919,153.70	....
Savings Deposits	57,626,717.74	60,038,013.84	10,547,387.34	128,212,118.92	124,874,381.47	3,337,737.45	....
Time Certificates	175,233,021.46	55,538.15	3,413,286.59	178,701,846.20	176,341,160.31	2,360,685.89	....
Trust Deposits	....	....	7,326,742.10	7,326,742.10	4,598,644.44	2,728,097.66	....
Other Liabilities	141,373.67	11,458.53	43,130.89	195,963.09	535,558.66	....	339,595.57
Totals	$394,065,336.54	$63,690,196.71	$45,836,051.98	$503,591,585.23	$499,424,839.21	$14,171,740.95	$10,004,994.93

*Two Stock Companies.

Total Deposits	$423,170,697.73
Net Increase in Deposits	13,112,319.52
Reserve on Hand (Banks and Trust Companies)	51,052,488.56
Amount of Reserve Required by Law	29,117,548.00

DEFTS. EX. F.

DOMESTIC STOCK FIRE COMPANIES.

Name of Company.	Capital	Total Admitted Assets	Net Surplus	Premiums Received In Minn.	Page
Mpls. F. & M., Mpls.	$ 200,000.00	$ 1,066,659.70	$ 156,472.72	$ 56,441.11	178
Minn. Fire, Chatfield	100,840.00	152,026.14	8,772.22	15,237.48	176
Northwestern F. & M., Mpls.	400,000.00	1,658,468.86	227,686.61	175,429.00	199
St. Paul F. & M., St. Paul	2,000,000.00	20,517,281.08	8,079,231.92	577,495.89	215
Twin City Fire, Mpls.	500,000.00	1,121,317.82	233,450.93	217,207.21	238
Total	$3,200,840.00	$24,515,753.60	$ 8,705,614.46	$1,041,810.69	

DOMESTIC LIFE COMPANIES.

Name of Company.	Capital	Total Admitted Assets	Net Surplus	Premiums Received In Minn.	Page
Duluth Liability, Duluth	$ 10,709.44	$ 12,991.62	$ 89.17	$ 5,407.31	503
Friendly Service, Mpls.	10,690.00	21,917.74	1,990.82	21,889.71	
Midland, St. Paul	167,954.50	1,028,984.55	34,368.31	136,195.25	540
Minn. Mutual, St. Paul	Mutual	10,376,021.64	782,321.66	957,087.27	542
Modern Life, St. Paul	100,000.00	174,426.35	20,657.37	158,421.21	546
North Am. Life & Cas., Mpls.	125,000.00	231,190.79	15,131.87	19,366.83	566
Northern States Life, Mpls.	100,000.00	346,109.30	41,975.21	91,157.46	568
Northwestern Nat., Mpls.	Mutual	14,503,960.75	1,005,709.31	1,305,829.61	571
Travelers Equitable, Mpls.	136,200.00	308,088.71	33,462.65	45,986.88	610
Twin City Life, St. Paul	100,000.00	424,155.16	45,152.43	78,995.36	
Total	$ 750,553.94	$27,427,900.61	$ 1,980,858.80	$2,820,336.89	

DOMESTIC CASUALTY COMPANIES.

Name of Company.	Capital	Total Admitted Assets	Net Surplus	Premiums Received In Minn.	Page
North Am. Life & Cas., Mpls.	+	+	+	$ 29,363.70	566
Real Estate Title, Mpls.	$ 200,000.00	$ 288,620.08	$ 65,961.87	6,013.89	718
Travelers Equitable, Mpl.	+	+	+	184,843.05	610
Total	$ 200,000.00	$ 288,620.08	$ 65,961.87	$ 220,220.64	

RECAPITULATION.

Name of Company.	Capital	Total Admitted Assets	Net Surplus	Premiums Received In Minn.
Domestic Stock Fire	$3,200,840.00	$24,515,753.60	$ 8,705,614.40	$1,041,810.69
Domestic Life	750,553.94	27,427,900.61	1,980,858.80	2,820,336.89
Domestic Casualty	200,000.00	288,620.08	65,961.87	220,220.64
Total	$4,151,393.94	$52,232,274.29	$10,752,435.07	$4,082,368.22

+Figures included under Life Companies.

DEFTS. EX. G.

LIST OF MONEY AND CREDITS.

Total 1921 and 1922 of the County of Ramsey, State of Minnesota, on May 1, 1923, as required by Chapter 285, Laws of 1911.

	ITEMS	1921	1922
1.	Money subject to check and on deposit in banks, Trust companies, or similar financial institutions, wherever situate...	$ 9,117,749	$ 9,341,138
2.	Money on deposit in banks, trust companies, postal and other Savings banks, or similar financial institutions, wherever the same are situate, and which is represented by certificates of deposit, cashier's checks, or similar instruments...........	745,030	1,053,650
3.	Money, other than above specified, on hand or under control of the owner or his agent, whether the same is held in this state or elsewhere	479,167	718,318
4.	Promissory notes, bills of exchange, due bills, cream checks, and similar evidences of indebtedness...................	7,265,200	6,825,425
5.	Bonds, except United States Bonds and bonds issued by State of Minnesota or any municipality thereof and such as are secured by real estate mortgages recorded in this state....	8,290,795	10,785,020
6.	Real estate mortgages upon lands situate outside of this state, and amount secured thereby..........................	2,072,790	1,989,760
7.	Real estate mortgages on lands in this state which have not been recorded and the amount secured thereby.............	99,055	135,160
8.	Chattel mortgages upon personal property in this state or elsewhere, and the amount secured thereby..................	1,649,369	1,374,835
9.	Judgments in this state or elswhere......................	200,740	615,995
10.	Book accounts	36,772,916	34,617,422
11.	Contracts for sale of real estate outside of this state..........	391,400	328,945
12.	Contracts for sale of real estate in this state which have not been recorded	598,830	444,885
13.	Annuities, royalties, and all sums of money receivable at stated periods	72,650	82,150
14.	All claims and demands for money or other valuable thing not above enumerated	105,800	173,700
15.	Shares of stock in corporations the property of which is not assessed or taxed in this state..........................	8,773,620	8,180,240
	Grand Total	$76,635,111	$76,665,643

DEFTS. EX. H.

ASSESSMENT BY ITEMS OF MONEY AND CREDITS FOR ENTIRE STATE IN 1918

(Except Pope County)

ITEMS	Per Cent of Total	Assessor's Valuation
1. Money subject to check and on deposit in banks, Trust companies, or similar financial institutions, wherever situate..	18.18	$59,196,202
2. Money on deposit in banks, trust companies, postal and other savings banks, or similar financial institutions, wherever the same are situate, and which is represented by certificates of deposit, cashier's checks or similar instruments..........	12.65	41,215,118
3. Money, other than above specified, on hand or under control of the owner or his agent, whether the same is held in this state or elsewhere	1.64	5,345,760
4. Promissory notes, bills of exchange, due bills, cream checks, and similar evidences of indebtedness..........	10.13	32,980,800
5. Bonds, except municipal and United States bonds and such as are secured by real estate mortgages recorded in this state	4.51	14,708,895
6. Real estate mortgages upon lands situate outside of this state, and amount secured thereby..........	3.87	12,594,324
7. Real estate mortgages on lands in this state which have not been recorded and the amount secured thereby..........	0.68	2,226,327
8. Chattel mortgages upon personal property in this state or elsewhere, and the amount secured thereby..........	0.86	2,791,965
9. Judgements in this state or elsewhere..........	0.21	684,555
10. Book accounts	34.34	111,842,966
11. Contracts for sale of real estate outside of this state..........	0.63	2,081,098
12. Contracts for sale of real estate in this state which have not been recorded	1.53	4,987,166
13. Annuities, royalties, and all sums of money receivable at stated periods	0.15	426,113
14. All claims and demands for money or other valuable thing not above enumerated	4.61	15,021,066
15. Shares of stock in corporations, the property of which is not assessed or taxed in this state..........	6.01	19,578,065
Total		$325,680,420

EXHIBIT I.

ASSESSMENT BY ITEMS OF MONEY AND CREDITS FOR RAMSEY COUNTY IN 1918.

ITEMS	Per Cent of Total	Assessor's Valuation
1. Money subject to check and on deposit in banks, Trust companies, or similar financial institutions, wherever situate..	15.07	$10,934,887
2. Money on deposit in banks, trust companies, postal and other savings banks, or similar financial institutions, wherever the same are situate, and which is represented by certificates of deposit, cashier's checks, or similar instruments..........	3.58	2,599,792
3. Money, other than above specified, on hand or under control of the owner or his agent, whether the same is held in this state or elsewhere	1.89	1,374,247
4. Promissory notes, bills of exchange, due bills, cream checks, and similar evidences of indebtedness....................	7.80	5,658,835
5. Bonds, except municipal and United States bonds and such as are secured by real estate mortgages recorded in this state	11.51	8,352,400
6. Real estate mortgages upon lands situate outside of this state, and amount secured thereby..........................	2.83	2,052,476
7. Real estate mortgages on lands in this state which have not been recorded and the amount secured thereby............	.48	348,278
8. Chattel mortgages upon personal property in this state or elsewhere, and the amount secured thereby..................	1.92	1,392,230
9. Judgements in this state or elsewhere......................	.03	26,915
10. Books accounts	41.25	29,927,457
11. Contracts for sale of real estate outside of this state..........	.21	155,311
12. Contracts for sale of real estate in this state which have not been recorded	.35	250,019
13. Annuities, royalties, and all sums of money receivable at stated periods	.04	27,180
14. All claims and demands for money or other valuable thing not above enumerated	3.62	2,628,008
15. Shares of stock in corporations, the property of which is not assessed or taxed in this state..........................	9.42	6,830,570
Total		$72,552,605

DEFENDANT'S EXHIBIT "J".

Trust Companies Organized Under the Laws of Minnesota Paying Gross Earnings Tax.

Name and Location	Capital Stock
Crookston Trust Company, Crookston, Minn.	$ 50,000.00
Guaranty Trust Company and Savings Bank, Fergus Falls, Minn.	50,000.00
Farmers Trust Company, Hastings, Minn.	50,000.00
Citizens Loan & Trust Company, Mankato, Minn.	50,000.00
Mankato Loan & Trust Company, Mankato, Minn.	60,000.00
Farmers Trust and Savings Bank, New Ulm, Minn.	50,000.00
Security Loan and Trust Company, Red Wing, Minn.	125,000.00
Rochester Loan & Trust Company, Rochester, Minn.	100,000.00
Builders Trust Company, St. Paul, Minn.	200,000.00
Midland Trust and Savings Bank, St. Paul, Minn.	200,000.00
Northwestern Trust Company, St. Paul, Minn.	1,000,000.00
Stockyards Mortgage and Trust Company, So. St. Paul, Minn.	50,000.00
Deposit Trust. and Savings Bank, Winona, Minn.	50,000.00
First Trust and Savings Bank, Winona, Minn.	50,000.00
Merchants Trust Company, Winona, Minn.	50,000.00

ILLUSTRATION

Northwestern Trust Company, St. Paul.

Capital Stock	$1,000,000.00	
Surplus	100,000.00	
Undivided profits	153,217.62	
	$1,253,217.62	
Real Estate Holdings May 1, 1921	96,446.10	
Balance used on basis of shares of national banks		$1,156,771.52
40% of that amount is	$462,708.60	
6% of that is		$27,762.51
Taxation gross earnings year 1921	$316,644.43	
5% of that is		$15,832.22
		$11,930.29

DEFENDANT'S EX. "K."

Money and Credits of the County of Ramsey, State of Minnesota, as of May 1, 1921, as listed by individuals and by corporations as to all persons and corporations listing credits over $4,000.

ITEMS.	Corporations	Individuals
1. Money subject to check and on deposit in banks, trust companies, or similar financial institutions, wherever situate...	$ 5,100,329	$ 4,017,420
2. Money on deposit in banks, trust companies, postal and other savings banks, or similar financial institutions, wherever the same are situate, and which is represented by certificates of deposit, cashier's checks, or similar instruments	160,015	585,015
3. Money, other than above specified, on hand or under control of the owner or his agent, whether the same is held in this state or elsewhere	442,790	36,377
4. Promissory notes, bills of exchange, due bills, cream checks, and similar evidences of indebtedness	4,783,754	2,481,446
5. Bonds, except United States Bonds and bonds issued by State of Minnesota or any municipality thereof and such as are secured by real estate mortgages recorded in this state....	694,820	7,595,975
6. Real estate mortgages upon lands situate outside of this state, and amount secured thereby	105,320	1,967,470
7. Real estate mortgages on lands in this state which have not been recorded and the amount secured thereby..........	5,400	93,655
8. Chattel mortgages upon personal property in this state or elsewhere, and the amount secured thereby..........	1,264,685	384,684
9. Judgments in this state or elsewhere..........	192,500	8,240
10. Books accounts	34,206,204	2,566,712
11. Contracts for sale of real estate outside of this state..........	57,120	334,280
12. Contracts for sale of real estate in this state which have not been recorded	354,220	244,610
13. Annuities, royalties, and all sums of money receivable at stated periods		72,650
14. All claims and demands for money or other valuable thing not above enumerated	50,420	55,380
15. Shares of stock in corporations the property of which is not assessed or taxed in this state..........	4,046,920	4,726,700
Total..........$76,635,111	$51,464,497	$25,170,614

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DEFENDANT'S EX. "L."

MONEY AND CREDITS

of the County of Ramsey, State of Minnesota, as of May 1, 1922, as listed by individuals and by corporations as to all persons and corporations listing credits over $4,000.

	ITEMS.	Corporations	Individuals
1.	Money subject to check and on deposit in banks, trust companies, or similar financial institutions, wherever situate...	$ 5,845,308	$ 3,494,830
2.	Money on deposit in banks, trust companies, postal and other savings banks or similar financial institutions, wherever the same are situate, and which is represented by certificates of deposit, cashier's checks, or similar instruments	398,745	654,905
3.	Money, other than above specified, on hand or under control of the owner or his agent, whether the same is held in this state or elsewhere	266,380	451,938
4.	Promissory notes, bills of exchange, due bills, cream checks, and similar evidences of indebtedness	5,176,615	1,648,810
5.	Bonds, except United States Bonds and bonds issued by State of Minnesota or any municipality thereof and such as are secured by real estate mortgages recorded in this state....	853,065	9,931,955
6.	Real estate mortgages upon lands situate outside of this state, and amount secured thereby	66,360	1,923,400
7.	Real estate mortgages on lands in this state which have not been recorded and the amount secured thereby..........	42,085	93,075
8.	Chattel mortgages upon personal property in this state or elsewhere, and the amount secured thereby..........	1,027,168	347,667
9.	Judgments in this state or elsewhere..........	595,175	20,820
10.	Book accounts	32,115,187	2,502,235
11.	Contracts for sale of real estate outside of this state..........	29,255	299,690
12.	Contracts for sale of real estate in this state which have not been recorded	238,740	206,145
13.	Annuities, royalties, and all sums of money receivable at stated periods	000	82,150
14.	All claims and demands for money or other valuable thing not above enumerated	60,840	112,860
15.	Shares of stock in corporations the property of which is not assessed or taxed in this state..........	2,124,835	6,055,405
	Total..........$76,665,643	$48,839,758	$27,825,885

DEFTS. EX. M.

COMPARATIVE ABSTRACT IN THOUSANDS SHOWING CONDITION OF NATIONAL BANKS IN MINNESOTA APRIL 28, 1921 AND May 5, 1922.

The below figures are compiled from the "Abstract of condition of National Banks" published by the Comptroller of the Currency, Washington, D. C., June 10, 1921 and June 22, 1922, numbered 130 and 135 respectively.

Resources	April 28, 1921 325 Banks Minnesota	April 28, 1921 8 Banks Mpls.	April 28, 1921 7 Banks St. Paul	April 28, 1921 340 Banks Total	May 5, 1922 328 Banks Minnesota	May 5, 1922 8 Banks Mpls.	May 5, 1922 7 Banks St. Paul	May 5, 1922 343 Banks Total
Loans and Discount	$182,757	$102,435	$64,795	$349,987	$178,505	$102,319	$ 59,251	$340,075
Overdrafts	336	34	23	393	220	57	9	286
Customers Liability account of acceptances	25	1,819	104	1,948	4	2,506	459	2,969
U. S. Government Securities owned	23,835	6,207	11,148	41,190	20,344	10,925	18,236	49,505
Other Bonds, Stocks and Securities	24,307	5,542	4,045	33,894	24,823	5,466	5,283	35,572
Banking Houses Furniture and Fixtures	7,477	1,806	2,031	11,314	7,980	1,686	2,028	11,694
Other Real Estate Owned	1,169	659	....	1,828	1,875	685	....	2,560
Lawful Reserve with Federal Reserve Bank	10,202	8,316	4,994	23,512	9,727	9,541	6,358	25,626
Items with Federal Reserve Bank for collection	241	3,653	2,552	6,446	282	3,848	2,687	6,817
Cash and amount due from National Banks	19,453	8,730	8,515	36,698	22,349	12,159	9,441	43,949
Amount due from State Bks. and Trust Companies	2,066	7,844	3,262	13,172	2,275	6,316	3,399	11,990
Exchanges for Clearing House	263	2,197	1,726	4,186	320	2,856	1,566	4,742
Checks on other banks in same place	276	111	94	481	387	111	84	582
Outside checks and cash items	586	1,442	593	2,621	592	2,342	459	3,393
Redemption Fund	555	142	65	762	577	142	65	784
Other Assets	1,040	616	198	1,854	1,224	964	236	2,424
Total Resources	$274,588	$151,553	$104,145	$530,286	$271,484	$161,923	$109,561	$542,968

Liabilities								
Capital Stock Paid In	$ 18,171	$ 12,200	$ 7,100	$ 37,471	$ 18,593	$ 12,200	$ 7,100	$ 37,893
Surplus	10,987	8,060	4,000	23,047	11,069	8,050	3,968	23,087
Undivided Profits less expenses, interest and taxes	5,039	4,724	3,589	13,352	5,444	4,020	3,851	13,315
National Bank Notes outstanding	10,821	2,682	1,223	14,729	11,333	2,756	1,295	15,384
Amount Due Federal Reserve Bank	3	70	....	73	212	....	....	212
Amount Due National Banks	3,567	11,839	7,162	22,568	4,212	15,854	9,284	29,350
Am't due State Banks, Bankers & Trust Companies	6,318	19,824	10,567	36,709	7,293	26,786	13,373	47,452
Certified checks outstanding	226	187	160	573	281	334	131	746
Cashier checks outstanding	2,157	2,787	890	5,834	2,128	3,439	762	6,329
Demand Deposits	78,622	62,490	43,574	184,686	76,363	60,777	44,237	181,377
Time Deposits	129,244	18,788	13,469	161,501	124,345	20,972	21,124	166,441
U. S. Deposits	358	2,735	2,928	6,021	543	3,184	3,029	6,756
U. S. Bonds Borrowed	377	705	5,273	6,355	70	60	....	130
Other Bonds and Securities borrowed	....	....	....	....	....	....	....	....
Bills Payable and Rediscounts	8,331	2,637	3,608	14,576	9,244	615	575	10,434
Letters of credit and travelers checks issued for cash	....	6	....	6	5	7	5	17
Acceptances Executed for Customers	25	1,514	100	1,639	....	2,080	447	2,527
Acceptances Executed by other banks	....	305	4	309	4	426	25	455
Other Liabilities	339	....	498	837	345	363	355	1,063
Total Liabilities	$274,588	$151,553	$104,145	$530,286	$271,484	$161,923	$109,561	$542,968
Total Capital Surplus and Undivided Profits	$ 34,197	$ 24,984	$ 14,689	$ 73,870	$ 35,106	$ 24,270	$ 14,919	$ 74,295
Total Banking House Furniture and Fixtures	$ 7,477	$ 1,806	$ 2,031	$ 11,314	$ 7,980	$ 1,686	$ 2,028	$ 11,694
Total U. S. Bonds and Securities	$ 23,835	$ 6,207	$ 11,148	$ 41,190	$ 20,344	$ 10,925	$ 18,236	$ 49,505
Total Other Bonds, Stocks and Securities	$ 24,307	$ 5,542	$ 4,045	$ 33,894	$ 24,823	$ 5,466	$ 5,283	$ 35,572
Total Deposits	$220,495	$118,720	$ 78,750	$417,965	$215,377	$131,346	$ 91,940	$438,663

DEFTS. EX. N.

ABSTRACT OF LOANS IN THOUSANDS SECURED BY REAL ESTATE HELD BY NATIONAL BANKS IN THE STATE OF MINNESOTA ON JUNE 30, 1921 AND JUNE 30, 1922.

1921 figures are compiled from the 1921 Annual Report of the Comptroller of the Currency as made to the Second Session of the Sixty-seventh Congress of the United States, dated December 5, 1921.

			Minnesota June 30, 1921	Mpls. June 30, 1921	St. Paul June 30, 1921	Total June 30, 1921
a.	(Loans Secured by Improved Real Estate)	Farm	$ 9,743	$607	$324	$10,674
	(Conforming to Section 24-Fed. Res. Act.)	Other	2,572	143	1	2,716
b.	(Secured by Real Estate taken for Debts)	Farm	4,348	179	3	4,530
	(previously contracted (Sec. 5137 U.S.R.S.)	Other	1,039	15	11	1,065
	All other Real Estate loans not included)	Farm	582	4	0	586
	in (a), (b).)	Other	142	0	0	142
		Totals	$18,426	$948	$339	$19,713

1922 figures are compiled from the 1922 Annual Report of the Comptroller of the Currency as made to the third Session of the Sixty-seventh Congress of the United States, Dated December 4, 1922.

			Minnesota June 30, 1922	Mpls. June 30, 1922	St. Paul June 30, 1922	Total June 30, 1922
a.	(Loans Secured by Improved Real Estate)	Farm	$11,281	$587	$370	$12,238
	(conforming to Section 24-Fed. Res. Act.)	Other	3,781	17	0	3,798
b.	(Secured by Real Estate taken for Debts)	Farm	6,986	198	7	7,191
	(previously contracted (Sec. 5137 U.S.R.S)	Other	1,395	285	0	1,680
	All other Real Estate loans not included)	Farm	393	0	0	393
	in (a), (b).)	Other	109	0	0	109
		Totals	$23,945	$1,087	$377	$25,409

The above figures show only the amount of Real Estate loans held on those dates but do not reveal aggregate volume of dealings during the years 1921 and 1922.

DEFTS. EX. O.

ABSTRACT SHOWING TOTAL INDIVIDUAL DEPOSITS, UNITED STATES BONDS AND SECURITIES, STATE OF MINNESOTA BONDS AND MUNICIPAL BONDS OF THE STATE OF MINNESOTA HELD BY BANKS IN RAMSEY COUNTY ON MAY 1, 1921 AND MAY 1, 1922.

	Number of Reporting Banks	Individual Deposits		U. S. Bonds & Securities		State of Minnesota Bonds and Municipal Bonds of the State of Minnesota	
		May 1, 1921	May 1, 1922	May 1, 1921	May 1, 1922	May 1, 1921	May 1, 1922
National Banks	8	$54,090,477.33	$64,706,319.10	$ 8,952,254.81	$17,340,340.36	$ 653,600.00	$ 475,400.00
State Banks	25	18,011,270.79	18,789,008.45	1,763,016.41	1,280,477.95	346,455.03	470,383.74
Savings Banks & Trust Companies..	5	13,560,659.14	14,498,600.08	952,411.52	899,764.70	391,232.50	247,744.64
Grand Totals		$85,662,407.26	$97,993,927.63	$11,667,682.74	$19,520,583.01	$1,391,287.53	$1,193,528.38

The above figures are compiled from the figures submitted by the different banks included in the above totals.

DEFTS. EX. P.

ABSTRACT SHOWING INDIVIDUAL DEPOSITS, UNITED STATES BONDS AND SECURITIES, STATE OF MINNESOTA BONDS AND MUNICIPAL BONDS OF THE STATE OF MINNESOTA HELD BY BANKS IN RAMSEY COUNTY ON MAY 1, 1921 AND MAY 1, 1922.

National Banks	Individual Deposits		U. S. Bonds & Securities		State of Minnesota Bonds and Municipal Bonds of the State of Minnesota	
	May 1, 1921	May 1, 1922	May 1, 1921	May 1, 1922	May 1, 1921	May 1, 1922
American National Bank, St. Paul	$ 2,732,176.83	$ 2,995,891.37	$ 558,917.35	$ 558,917.35	$ 13,000.00	$ 13,000.00
Capital National Bank, St. Paul	7,216,657.27	7,305,057.41	1,733,113.60	2,467,519.25	43,700.00	63,000.00
First National Bank, St. Paul	25,201,055.57	34,315,314.93	3,453,665.06	11,343,234.95	315,000.00	207,000.00
Merchants National Bank, St. Paul	16,418,712.36	17,096,211.61	2,550,508.80	2,425,568.81	281,500.00	192,000.00
First National Bank, White Bear Lake	350,000.00	415,000.00	33,000.00	27,100.00	400.00	400.00
National Exchange Bank, St. Paul	1,135,440.57	1,140,051.96	369,000.00	258,000.00	....	....
Twin Cities National Bank	603,791.64	677,430.06	254,050.00	260,000.00	....	....
Wabash National Bank, St. Paul	432,643.09	761,361.76	....	....	....	....
Totals	$54,090,477.33	$64,706,319.10	$8,952,254.81	$17,340,340.36	$653,600.00	$475,400.00

State Banks						
Broadway State Bank, St. Paul	$............	$............	$...........	$............	$.........	$.........
Central Metropolitan Bank, St. Paul	2,730,472.43	4,142,740.62	160,879.27	400,000.00	....	....
Cherokee State Bank, St. Paul	95,130.46	154,086.93	250.00	1,700.00	....	....
Citizens State Bank, St. Paul	356,291.14	362,026.33	15,950.00	10,250.00	....	....
City Bank of St. Paul, St. Paul	344,210.96	463,628.00	139,502.35	36,067.17	....	....
Commercial State Bank, St. Paul	1,110,607.70	1,224,184.07	125,000.00	125,000.00	....	....
Cosmopolitan State Bank, St. Paul	260,417.46	251,896.75	31,650.00	8,500.00	....	....
Dayton's Bluff State Bank, St. Paul	1,314,470.37	1,335,589.68	59,200.00	79,200.00	111,755.03	106,385.11
East Side State Bank, St. Paul	235,000.00	312,000.00	29,000.00	17,500.00	4,900.00	....
Farmers & Merchants State Bank, St. Paul	368,415.49	404,525.04	17,633.46	17,663.96	4,000.00	....
First State Bank, New Brighton, Minnesota	136,117.17	119,193.93	4,800.00	3,000.00	1,000.00	....
First State Bank, North St. Paul, Minn.	293,309.51	309,310.17	4,000.00	11,500.00	....	....
First State Bank, White Bear Lake	350,000.00	300,000.00	15,775.00	900.00	300.00	300.00
Grand Ave. State Bank, St. Paul	....	....	....	....	....	....
Great Northern State Bank, St. Paul	735,000.00	790,000.00	29,750.00	10,000.00	....	....

Liberty State Bank, St. Paul	501,949.38	393,475.00	26,000.00	28,000.00	8,200.00	41,398.63
Midway State Bank, St. Paul	144,647.77	166,107.90	....	....	....	....
Minnesota Transfer State Bank, St. Paul	839,481.22	911,469.48	11,700.00	....	....	....
Mounds Park State Bank, St. Paul	511,654.45	550,297.94	87,536.47	117,042.12	20,500.00	42,500.00
Payne Ave. State Bank, St. Paul	991,040.29	1,189,952.15	35,650.00	57,700.00	101,000.00	184,000.00
Peoples State Bank, St. Paul	1,453,585.90	....	227,000.00	....	....	....
Phalen Park State Bank, St. Paul	....	....	....	....	....	....
Produce Exchange Bank, St. Paul	384,325.87	383,983.65	21,650.00	22,600.00	29,000.00	23,000.00
Ramsey County State Bank, St. Paul	1,381,339.88	1,417,897.68	106,650.00	75,500.00	1,000.00	1,000.00
Rice Street State Bank, St. Paul	....	....	....	....	....	....
St. Anthony Park State Bank, St. Paul	267,500.00	295,500.00	15,500.00	49,500.00	13,000.00	19,000.00
St. Paul State Bank, St. Paul	1,472,920.10	1,529,727.09	522,439.86	141,454.70	45,800.00	45,800.00
Security State Bank, St. Paul	1,045,793.70	1,095,428.27	54,200.00	46,100.00	....	....
West St. Paul State Bank, St. Paul	....	....	....	....	....	....
Western State Bank, St. Paul	687,589.54	685,987.77	21,300.00	21,300.00	6,000.00	7,000.00
Totals	$18,011,270.79	$18,789,008.45	$1,763,016.41	$ 1,280,477.95	$346,455.03	$470,383.74
Savings Banks & Trust Companies.						
Capital Trust and Savings Bank, St. Paul	$ 333,157.00	$ 442,656.00	$..........	$..........	$150,000.00	$150,000.00
Central Trust and Savings Bank, St. Paul	114,851.43	252,928.84	....	....	....	....
Merchants Trust and Savings Bank	2,756,061.96	3,581,757.62	28,500.00	45,850.00	155,800.00	42,244.64
Northern Savings Bank, St. Paul	3,374,805.94	3,277,473.10	514,787.62	388,052.20	....	....
State Savings Bank, St. Paul	6,981,842.81	6,943,784.52	409,123.90	405,862.50	85,432.50	55,500.00
Totals	$13,560,659.14	$14,498,600.08	$ 952,411.52	$ 899,764.70	$391,232.50	$247,744.64

DEFTS. EX. Q.

AGGREGATE DEALINGS IN LOCAL INVESTMENT MARKET FOR YEARS 1921 AND 1922

The below figures are compiled from the "Summary of Local Investment Market" reports published by the Federal Reserve Bank of Minneapolis and include total sales as reported to the Federal Reserve Bank by different Investment houses located in the Twin Cities.

	1921	1922	8 months 1923
Farm Mortgages	$10,891,470.00	$ 10,013,990.00	$ 5,017,915.00
City Mortgages	3,144,599.00	6,582,592.00	5,791,600.00
Land Bank Bonds	....	1,555,405.00	2,447,685.00
U. S. Government and Municipal Bonds and Notes	27,372,823.00	40,111,841.00	33,512,396.00
Corporation Bonds and Notes (Does not include Commercial Paper)	28,425,824.00	36,507,492.00	29,630,154.00
Foreign Securities	8,312,032.00	10,201,825.00	5,083,051.00
Stock (original issues)	1,659,920.00	2,811,609.00	3,861,900.00
All other Securities	1,527,024.00	3,160,041.00	1,804,129.00
Total	$81,333,692.00	$110,944,795.00	$87,148,830.00
Average Percent of total sold to other Dealers	Figures	34.5*	28.3
Average Percent of total sold to Bankers	not	14.3*	13.8
Average Percent of total sold to General Public	available	51.2*	57.3

*These percentages represent the last three months of 1922—Figures for the first 9 months are not available.

DEFTS. EX. R.

AGGREGATE DEALINGS IN CATTLE LOAN PAPER FOR THE YEARS 1921-1922.

	1921	1922
Total sales reported by three of the larger Cattle Loan and Investment Companies operating in Minnesota	$12,738,373.95	$9,945,556.67
Amount Sold to Individuals in Minnesota	580,665.00	365,083.00
Total amount sold to Individuals, Firms, Corporations and Banks in Minnesota	5,276,090.00	8,048,569.00

DEFTS. EX. S.

ABSTRACT SHOWING TOTAL CAPITAL SURPLUS AND UNDIVIDED PROFITS, REAL ESTATE, U. S. BONDS AND SECURITIE
COUNTY ON MAY 1, 1921 AND MAY 1, 1

MAY 1, 1921

National Banks	Location	Capital, Surplus & Undivided Profits	Real Estate	Amount for Computation of Taxes	U. S. Bonds & Securities	State of Mi Bonds & Securiti
American National Bank	St. Paul	$ 578,753.25	$..........	$ 578,753.25	$ 558,917.35	$ 13,000
Capital National Bank	St. Paul	1,239,432.49	450,000.10	789,432.39	1,733,113.60	43,700
First National Bank	St. Paul	6,649,805.85	647,587.84	6,002,218.01	3,453,665.06	315,000
Merchants National Bank	St. Paul	4,582,660.52	1,594,433.75	2,988,226.77	2,550,508.80	281,500
First National Bank	White Bear	37,306.66	4,846.00	32,460.66	33,000.00	400
National Exchange Bank	St. Paul	424,356.09	....	424,356.00	369,000.00	....
Twin Cities National Bank	St. Paul	253,738.64	34,830.00	218,908.64	254,050.00	....
Wabash National Bank	St. Paul	243,734.71	145,000.00	98,734.71	....	....
	Totals........	$14,009,788.21	$2,876,697.69	$11,133,090.52	$ 8,952,254.81	$ 653,600
State Banks						
Central Metropolitan Bank	St. Paul	$ 373,872.08	$..........	$ 373,872.08	$ 160,879.27	$........
Cherokee State Bank	St. Paul	30,000.00	4,000.00	26,000.00	250.00	....
Citizens State Bank	St. Paul	37,500.00	....	37,500.00	15,950.00	....
City Bank of St. Paul	St. Paul	35,318.12	6,150.00	29,168.12	139,502.35	....
Commercial State Bank	St. Paul	100,573.08	40,000.00	60,573.08	125,000.00	....
Cosmopolitan State Bank	St. Paul	33,475.00	....	33,475.00	31,650.00	....
Dayton's Bluff State Bank	St. Paul	67,528.56	6,200.00	61,328.56	59,200.00	111,755.
East Side State Bank	St. Paul	32,711.57	3,225.00	29,486.57	29,000.00	4,900.
Farmers & Merchants State Bank	St. Paul	33,000.00	8,500.00	24,500.00	17,633.46	4,000.
First State Bank	New Brighton	15,467.41	1,950.00	13,517.41	4,800.00	1,000.
First State Bank	North St. Paul........	30,000.00	3,253.27	26,746.73	4,000.00	....
First State Bank	White Bear	42,876.00	5,000.00	37,876.00	15,775.00	300.
Great Northern State Bank	St. Paul	50,338.34	....	50,338.34	29,750.00	....
Liberty State Bank	St. Paul	30,000.00	....	30,000.00	26,000.00	8,200.
Midway State Bank	St. Paul	31,048.40	....	31,048.40	....	....
Minnesota Transfer State Bank	St. Paul	75,188.06	1,207.13	73,980.93	11,700.00	....

DEFTS. EX. 8.

ESTATE, U. S. BONDS AND SECURITIES, AND STATE OF MINNESOTA BONDS AND SECURITIES HELD BY BANKS IN RAMSEY COUNTY ON MAY 1, 1921 AND MAY 1, 1922.

1, 1921			MAY 1, 1922				
Amount for Computation of Taxes	U. S. Bonds & Securities	State of Minn. Bonds & Securities	Capital, Surplus & Undivided Profits	Real Estate	Amount for Computation of Taxes	U. S. Bonds & Securities	State of Minn. Bonds & Securities
$ 578,753.25	$ 558,917.35	$ 13,000.00	$ 583,808.44	$...........	$ 583,808.44	$ 558,917.35	$ 13,000.00
789,432.39	1,733,113.60	43,700.00	1,335,182.67	442,187.50	892,995.17	2,467,519.25	63,000.00
6,002,218.01	3,453,665.06	315,000.00	7,061,710.52	533,606.46	6,528,104.06	11,343,234.95	207,000.00
2,988,226.77	2,550,508.80	281,500.00	4,564,074.81	1,487,450.00	3,076,624.81	2,425,568.81	192,000.00
32,460.66	33,000.00	400.00	39,808.30	29,975.30	9,833.00	27,100.00	400.00
424,356.00	369,000.00	....	422,523.04	....	422,523.04	258,000.00	....
218,908.64	254,050.00	....	258,287.82	34,830.00	223,457.82	260,000.00	....
98,734.71	....	....	218,314.42	145,000.00	73,314.42	....	....
$11,133,090.52	$ 8,952,254.81	$ 653,600.00	$14,483,710.02	$2,673,049.26	$11,810,660.76	$17,340,340.36	$ 475,400.00
$ 373,872.08	$ 160,879.27	$...........	$ 485,146.79	$...........	$ 485,146.79	$ 400.000.00	$...........
26,000.00	250.00	....	30,178.60	12,000.00	18,178.60	1,700.00	....
37,500.00	15,950.00	....	42,450.83	....	42,450.83	10,250.00	....
29,168.12	139,502.35	....	36,926.56	11,940.87	24,985.69	36,067.17	....
60,573.08	125,000.00	....	108,988.91	40,000.00	68,988.91	125,000.00	....
33,475.00	31,650.00	....	37,500.00	....	37,500.00	8,500.00	....
61,328.56	59,200.00	111,755.03	79,669.25	6,200.00	73,469.25	79,200.00	106,385.11
29,486.57	29,000.00	4,900.00	31,226.20	12,000.00	19,226.20	17,500.00	....
24,500.00	17,633.46	4,000.00	35,904.73	8,500.00	27,404.73	17,663.96	....
13,517.41	4,800.00	1,000.00	16,012.10	5,400.00	10,612.10	3,000.00	....
26,746.73	4,000.00	....	30,000.00	12,753.27	17,246.73	11,500.00	....
37,876.00	15,775.00	300.00	43,642.10	7,800.00	35,842.10	900.00	300.00
50,338.34	29,750.00	....	55,567.12	3,000.00	52,567.12	10,900.00	....
30,000.00	26,000.00	8,200.00	30,000.00	....	30,000.00	28,000.00	41,398.63
31,048.40	....	....	34,288.78	4,016.71	30,272,07	....	....
73,980.93	11,700.00	....	82,257.18	1,238.05	81,019.13	....	....

Mounds Park State Bank	St. Paul	....	35,000.00	....	35,000.00	87,536.47	20,500.00
Payne Avenue State Bank	St. Paul	....	115,464.79	....	115,464.79	35,650.00	101,000.00
Peoples State Bank	St. Paul	....	616,380.71	230,000.00	386,380.71	227,000.00	....
Produce Exchange Bank	St. Paul	....	34,000.00	210.00	33,790.00	21,650.00	29,000.00
Ramsey County State Bank	St. Paul	....	116,354.05	13,575.00	102,779.05	106,650.00	1,000.00
St. Anthony Park State Bank	St. Paul	....	39,940.00	49,470.00	....	15,500.00	13,000.00
St. Paul State Bank	St. Paul	....	152,940.19	....	152,940.19	522,439.86	45,800.00
Security State Bank	St. Paul	....	55,300.00	14,000.00	41,300.00	54,200.00	....
Western State Bank	St. Paul	....	33,474.43	....	33,474.43	21,300.00	6,000.00
	Totals	....	$ 2,217,750.79	$ 386,740.40	$ 1,840,540.39	$ 1,763,016.41	$ 346,455.03

Savings Bank & Trust Companies with Capital

Capital Trust & Savings Bank	St. Paul	....	$ 550,000.00	$...........	$ 550,000.00	$...........	$ 150,000.00
Central Trust & Savings Bank	St. Paul	....	255,009.63	....	255,009.63	....	....
Merchants Trust & Savings Bank	St. Paul	....	878,581.08	....	878,581.08	28,500.00	155,800.00
	Totals	....	$ 1,683,590.71	$...........	$ 1,683,590.71	$ 28,500.00	$ 305,800.00

RECAPITULATION OF TOTALS

	Number						
National Banks	8	....	$14,009,788.21	$2,876,697.69	$11,133,090.52	$ 8,952,254.81	$ 653,600.00
State Banks	25	....	2,217,750.79	386,740.40	1,840,540.39	1,763,016.41	346,455.03
Savings Banks & Trust Companies	3	....	1,683,590.71	....	1,683,590.71	28,500.00	305,800.00
	Grand Totals	....	$17,911,129.71	$3,263,438.09	$14,657,221.62	$10,743,771.22	$1,305,855.03

35,000.00	87,536.47	20,500.00	41,759.30	....	41,759.30	117,042.12	42,500.00
115,464.79	35,650.00	101,000.00	115,117.74	....	115,117.74	57,700.00	184,000.00
386,380.71	227,000.00	....	Taken over by Central Met. Bank				
33,790.00	21,650.00	29,000.00	34,000.00	210.00	33,790.00	22,600.00	23,000.00
102,779.05	106,650.00	1,000.00	110,692.44	6,083.00	104,609.44	75,500.00	1,000.00
....	15,500.00	13,000.00	39,550.91	10,150.00	29,400.91	49,500.00	19,000.00
152,940.19	522,439.86	45,800.00	155,621.38	....	155,621.38	141,454.70	45,800.00
41,300.00	54,200.00	....	60,000.00	14,000.00	46,000.00	46,100.00	....
33,474.43	21,300.00	6,000.00	34,706.17	....	34,706.17	21,300.00	7,000.00
$ 1,840,540.39	$ 1,763,016.41	$ 346,455.03	$ 1,771,207.09	$ 155,291.90	$ 1,615,915.19	$ 1,280,477.95	$ 470,383.74

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$ 550,000.00	$............	$ 150,000.00	$ 535,726.11	$ 34,529.87	$ 501,196.24	$............	$ 150,000.00
255,009.63	....	....	273,203.63	....	273,203.63	....	....
878,581.08	28,500.00	155,800.00	981,627.65	....	981,627.65	45,850.00	42,244.64
$ 1,683,590.71	$ 28,500.00	$ 305,800.00	$ 1,790,557.39	$ 34,529.87	$ 1,756,027.52	$ 45,850.00	$ 192,244.64

APITULATION OF TOTALS

$11,133,090.52	$ 8,952,254.81	$ 653,600.00	$14,483,710.02	$2,673,049.26	$11,810,660.76	$17,340,340.36	$ 475,400.00
1,840,540.39	1,763,016.41	346,455.03	1,771,207.09	155,291.90	1,615,915.19	1,280,477.95	470,383.74
1,683,590.71	28,500.00	305,800.00	1,790,557.39	34,529.87	1,756,027.52	45,850.00	192,244.64
$14,657,221.62	$10,743,771.22	$1,305,855.03	$18,045,474.50	$2,862,871.03	$15,182,603.47	$18,666,668.31	$1,138,028.38

DEFTS. EX. T.

COMPARATIVE STATEMENT SHOWING CONDITION OF THE FIRST NATIONAL BANK OF ST. PAUL MAY 1, 1921 AND MAY 1, 1922.

Resources	May 1, 1921	May 1, 1922
Loans and Discounts	$30,459,384.24	$26,489,898.41
Overdrafts	8,007.80	2,709.96
Customers Liability Account of Acceptances	....	....
U. S. Government Securities Owned	3,453,665.06	11,343,234.95
Other Bonds, Stocks and Securities	1,428,272.84	2,710,730.03
Banking House Furniture and Fixtures	556,199.42	533,606.46
Other Real Estate Owned	....	....
Lawful Reserve with Federal Reserve Bank	2,118,449.30	2,786,649.41
Items with Federal Reserve Bank for Collection	848,206.55	426,459.97
Cash and Amount Due from National Banks	4,777,046.45	5,828,689.21
Amount Due from State Banks & Trust Companies	1,691,372.73	2,177,737.15
Exchanges for Clearing House	627,612.48	524,821.58
Checks on other Banks in Same Place	192,384.40	187,943.62
Outside Checks and Cash Items	384,768.82	375,887.25
Redemption Fund	....	....
Other Assets	26,375.12	72,762.34
Total Resources	$46,571,745.21	$53,461,130.34
Liabilities		
Capital Stock Paid In	$ 3,000,000.00	$ 3,000,000.00
Surplus	2,000,000.00	2,000,000.00
Undivided Profits, less Expenses, Interest and Taxes	1,371,847.48	1,394,585.04
National Bank Notes Outstanding	....	....
Amount Due Federal Reserve Bank	....	....
Amount Due National Banks	4,379,197.01	5,311,484.91
Amount Due State Banks, Bankers & Trust Companies	4,127,603.59	4,954,331.39
Certified Checks Outstanding	44,000.86	27,591.07
Cashier Checks outstanding	182,771.71	188,650.54
Demand Deposits	21,039,275.61	28,547,906.22
Time Deposits	5,635,010.50	5,683,908.56
U. S. Deposits	1,386,419.16	1,606,680.56
U. S. Bonds Borrowed	2,693,500.00	....
Other Bonds and Securities Borrowed	....	....
Bills Payable and Rediscounts	....	....
Letters of Credit & Travelers checks issued for cash	....	....
Acceptances executed for customers	....	....
Acceptances executed by other banks	....	....
Other Liabilities	712,119.29	745,993.05
Total Liabilities	$46,571,745.21	$53,461,130.34
Total Capital Surplus & Undivided Profits	$ 6,371,847.48	$ 6,394,585.04
Total Banking House Furniture and Fixtures	556,199.42	533,606.46
Total U. S. Bonds and Securities	3,453,665.06	11,343,234.95
Total other Bonds, Stocks and Securities	1,428,272.84	2,710,730.03
Total Deposits	36,794,278.44	46,320,552.25

STATE'S EXHIBIT 2.

(pages 42-46 inclusive.)

BANKS.

33. Incoroporated Banks—The stock of every bank and mortgage loan company in this state, organized under the laws of this state or of the United States, shall be assessed and taxed in the town, city or village where such bank or mortgage loan company is located, whether the stockholders of such bank reside in such place or not, and shall be assessed in the name of the bank or mortgage loan company. The cashier, or other officer of the bank or mortgage loan company, shall list all shares of the bank or mortgage loan company for assessment, in the same manner as the general property of the bank or mortgage loan company is listed. To aid the assessor in determining the value of such shares of stock, the accounting officer of every such bank or mortgage loan company shall furnish to the assessor a sworn statement showing the amount and number of the shares of the capital stock, the amount of its surplus or reserve fund and amount of its legally authorized investments in real estate, which shall be assessed and taxed as other real estate under this chapter. The assessor shall deduct the amount of investments in real estate from the aggregate amount of such capital and surplus fund, and the remainder shall be taken as a basis for the valuation of such shares in the hands of the stockholders, subject to the provisions of the law requiring all property to be assessed at its true and full value. The shares of capital stock of corporate banks not located in this state, held in this state, shall not be required to be listed under this chapter, but

shall be listed by and assessed to the owner of such stock. ('50 c. 60 sec. 1). (2018).

Q. How are banks assessed?

A. Banks are assessed on the value of their shares of stock. Such value is determined by adding together the capital, surplus, and undivided profits and deducting the legally authorized investments in real estate from the total of such items, the real estate being separately assessed. The remainder is to be taken as the value of the shares of stock and the assessments extended at 40 per cent. thereof. (Item 55, Class 4.)

Q. Why is the personal property assessment of a bank based on the value of its shares of stock, less the value of real estate holdings?

A. The value of the shares of stock represents the value of the entire property of the bank, each share representing a proportional interest in the corporate holdings. Because real estate owned by a bank is assessed separately as such, therefore in determining the value of the shares of stock taxable as personal property, it is necessary to deduct from the total value of such shares as represented by the capital, surplus and undivided profits, the value of real estate. Otherwise there would be double taxation on such portion of the value of the shares as is reresented by the corporate holdings of real estate.

Q. When does a bank become subject to taxation?

A. Immediately upon the filing of its articles of incorporation with the secretary of state, even though the bank does not commence business until a later date.

Right to tax national banks.

Q. Can the state tax shares of stock in a national bank located within the state?

A. Yes, subject to the federal statutes which provide that such tax shall not exceed the rate imposed upon the shares in any of the banks organized under authority of the state, and that the tax must be assessed only where the national bank is located.

Q. Can a resident of Minnesota be taxed on the shares of stock he owns in a national bank located outside of this state?

A. No. As stated above under the act of congress permitting the taxation of the shares of stock of national banks by the states the assessment only can be made where the bank is located.

Q. In making the sworn statement to the assessor as required by section 2018, G. S. 1913, can a bank deduct bonds, certificates of indebtedness and other securities in which it has invested, from the aggregate of its capital, surplus and undivided profits?

A. No. Only the legally authorized investments of the bank in Minnesota real estate can be deducted.

Q. Is the interest which a bank acquired by reason of the purchase of real estate at a mortgage foreclosure sale an "investment in real estate" which is authorized to be deducted from the capital, surplus and undivided profits for the purpose of determining the taxable value of the bank stock?

A. No, not unless complete title is acquired. By investment in real estate is meant ownership in fee.

Only one deduction.

Q. Can a bank deduct as real estate from its capital, surplus and undivided profits the value of land upon which it has security for a loan in the form of a warranty deed?

A. No. The fee owner and not the bank holding the deed pays taxes on such real estate.

Q. In determining the value of bank stock for purposes of taxation should the value of United States bonds owned by the bank be deducted?

A. The only deductions permitted are the legally authorized investments of the bank in Minnesota real estate.

Q. Should unpaid balances on a land contract be considered as an investment in real estate in determining the value of the shares of stock of a bank for the purposes of taxation?

A. No, and no deductions can be made for such unpaid balances.

Q. In making its return for taxation can a bank deduct from the aggregate of its capital, surplus and undivided profits the value of land sold by it on contract?

A. No. Land so sold is not a "legally authorized investment in real estate."

Q. Can a bank deduct from the aggregate of its capital, surplus and undivided profits the amount of its investments in real estate outside the state of Minnesota?

A. No. The term "legally authorized investment in real estate" does not include investments in real estate located in other states or countries.

Stock in reserve bank.

Q. Can a bank deduct from the aggregate of its capital, surplus and undivided profits the amount of its investment in the stock of the federal reserve bank?

A. No. Only legally authorized investments in real estate can be deducted.

Q. Can furniture, desks, fixtures, etc., used by a bank in its business be assessed as personal property?

A. No. Their value is included in capital stock, surplus and undivided profits unless the amount invested in such property has been charged off and in that event it should be assessed separately. This condition, however, seldom exists.

Deposits not owned by banks.

Q. Can the deposits held by a bank be assessed against the bank?

A. No. The deposits are the property of the depositors and not of the bank and are assessable against the owners thereof as money. It is immaterial that the money deposited has been loaned by the bank.

Q. Is there any limitation on the amount a state bank may invest in real estate?

A. No, but not more than 25 per cent of its capital and surplus may be invested in the banking house occupied by it.

34. Banks—List of Stockholders—In every bank and banking office there shall be kept at all times a full and correct list of the names and residences of the stockholders or owners or parties interested therein showing the number of shares, and the amount held, owned, or controlled by each party in interest, which list shall be subject to the inspection of the officers authorized to access property for taxation, and the accounting officer of each bank or banking institution shall furnish to the assessor a duplicate copy of such list, verified by oath, which shall be returned and filed with the county auditor. (2019)

Q. May a trust company taxed under this law deduct the interest received from Minnesota municipal bonds or United States government bonds from its gross earnings?

A. No. The tax is "in lieu of all taxes and assessments

upon the capital stock and the personal property of such trust company," and therefore is not a tax on exempt federal or state securities, but a tax on the value of the shares of stock, the same as the tax on other bank stock.

Q. May a trust company deduct interest paid in reporting its gross earnings?

A. No.

35. BANKS WITHOUT STOCK—The accounting officer of every bank whose capital is not represented by shares of stock, * * * when listing personal property, shall also make out and deliver to the assessor a sworn statement showing:

(1) The amount of money on hand or in transit.

(2) The amount of funds in the hands of other banks, brokers, or others subject to draft.

(3) The amount of checks or cash items not included in either of the preceding items.

(4) The amount of bills receivable, discounted or purchased, and other credits due or to become due, including accounts receivable, and interest accrued but not due, and interest due and unpaid.

(5) The amount of bonds and stocks of every kind (except United States bonds), and shares of capital stock of Joint stock or other companies or corporations held as an investment, or in any way representing assets.

(6) All other property appertaining to said business, other than real estate, which shall be listed and assessed as other real estate, under this chapter.

(7) The amount of all deposits made with them by other persons.

(8) The amount of all accounts payable, other than current deposit accounts.

The aggregate amount of the seventh and eighth items shall be deducted from the aggregate amount of the first, second, third, and fourth items, and the remainder, if any, shall be listed as money, under (R. L.) Sec. 835, subd. 19*. The amount of the fifth item shall be listed as bonds and stock under said section, and the sixth item shall be listed the same as other similar personal property is listed under this chapter, except that, in case of savings banks organized under the general laws of this state, the amount of the seventh and eighth items shall be deducted from the aggregate amount of the first, second, third, fourth, fifth, and sixth items, and the remainder, if any, shall be listed as credits, according to the provisions of (R. L.) Sec. 835. (2016)

**Note*—Money and credits are now listed on a separate blank under the provisions of sections 44-59 of this manuel.

36. Trust Companies Receiving Deposits Subject to Check—On or before March 1, of each year every trust company organized under the laws of this state shall pay into the county treasury of the county where its principle place of business is located five (5) per cent of its gross earnings for the preceding calendar year, which amount shall be in lieu of all taxes and assessments upon the capital stock and the personal property of such trust comapny; provided, however, that if any such company shall receive deposits subject to check other than trust deposits, that then such company shall be assessed in the same manner as incorporated banks are assessed, and shall pay taxes in the same manner as such banks. ('13 c. 529 Sec. 1) (2268)

STATE'S EXHIBIT 3.

(pages 44-48 inclusive)

BANKS.

33. Incorporated Banks—The shares of stock of every bank in this state organized under the laws of the United States, and the moneyed capital of every bank or mortgage loan company organized under the laws of this state shall be assessed and taxed at forty (40) per cent of the true and full value thereof in the city, village, town or district where such bank or mortgage loan company is located.

The shares of stock of banks organized under the laws of the United States shall be assessed and taxed against the holders thereof, but in the name of the bank, and the taxes levied thereon shall be paid by such bank as agent of the stockholders, regardless of where such stockholders may reside. The moneyed capital of every bank and mortgage loan company organized under the laws of this state shall be assessed and taxed against such bank or mortgage loan company, and the taxes levied thereon shall be paid by such bank or mortgage loan company.

To aid the assessor in determining the value of the shares of stock of national banks and the value of the moneyed capital of state banks and mortgage loan companies, the cashier or other accounting officer of every such bank or mortgage loan company shall furnish a sworn statement to the assessor, showing the amount and number of shares of the capital stock, the amount of its surplus, undivided profits and all other funds, and the amount of its legally authorized

investments in real estate located in this state, which real estate shall be assessed and taxed in the same manner as other real estate. The assessor shall deduct the amount of such legally authorized investments in real estate from the aggregate amount of such capital, surplus, undivided profits, and other funds, and the remainder shall be taken as a basis for determining the taxable value of the shares of stock of banks organized under the laws of the United States and of the moneyed capital of banks and mortgage loan companies organized under the laws of this state.

To secure the payment of taxes levied against the stockholders of banks organized under the laws of the United States every such bank shall, before declaring any dividend, deduct from the annual earnings of the bank such amount as may be necessary to pay any such taxes so levied against such stockholders, and such bank or the officers thereof shall pay the taxes and shall be authorized to charge the amount thereof to the expense account of such bank. ('21c. 416.)

Q. How are banks assessed?

A. Banks are assessed on the value of their shares of stock. Such value is determined by adding together the capital, surplus and undivided profits and deducting the legally authorized investments in real estate from the total of such items, the real estate being separately assessed. The remainder is to be taken as the value of the shares of stock, and the assessments extended at 40 per cent, thereof. (Item 55, Class 4.)

Q. Why is the personal property assessment of a bank based on the value of its shares of stock, less the value of real estate holdings?

A. The value of the shares of stock represents the value of the entire property of the bank, each share representing

a proportional interest in the corporate holdings. Because real estate owned by a bank is assessed separately as such, therefore in determining the value of the shares of stock taxable as personal property, it is necessary to deduct from the total value of such shares as represented by the capital, surplus and undivided profits, the value of real estate. Otherwise there would be double taxation on such portion of the value of the shares as is represented by the corporate holdings of real estate.

Q. When does a bank become subject to taxation?

A. Immediately upon the filing of its articles of incorporation with the secretary of state, even though the bank does not commence business until a later date.

Right to tax national banks.

Q. Can you state tax shares of stock in a national bank located within the state?

A. Yes, subject to the federal statutes which provide that such tax shall not exceed the rate imposed upon the shares in any of the banks organized under authority of the state, and that the tax must be assessed only where the national bank is located.

Q. Can a resident of Minnesota be taxed on the shares of stock he owns in a national bank located outside of this state?

A. No. As stated above under the act of congress permitting the taxation of the shares of stock of national banks by the states the assessment only can be made where the bank is located.

Q. In making the sworn statement to the assessor as required by section 2018, G. S. 1913, can a bank deduct bonds, certificates of indebtedness and other securities in which it has invested, from the aggregate of its capital, surplus and undivided profits?

A. No. Only the legally authorized investments of the bank in Minnesota real estate can be deducted.

Q. Is the interest which a bank acquires by reason of the purchase of real estate at a mortgage foreclosure sale an "investment in real estate" which is authorized to be deducted from the capital, surplus and undivided profits for the purpose of determining the taxable value of the bank stock?

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A. No. The fee owner and not the bank holding the deed pays taxes on such real estate.

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A. No, and no deductions can be made for such unpaid balances.

Q. In making its return for taxation can a bank deduct from the aggregate of its capital, surplus and undivided profits the value of land sold by it on contract?

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Q. Can a bank deduct from the aggregate of its capital, surplus and undivided profits the amount of its investments in real estate outside the state of Minnesota?

A. No. The term "legally authorized investment in real estate" does not include investments in real estate located in other states or countries.

Stock in reserve bank.

Q. Can a bank deduct from the aggregate of its capital, surplus and undivided profits the amount of its investment in the stock of the federal reserve bank?

A. No. Only legally authorized investments in real estate can be conducted.

Q. Can furniture, desks, fixtures, etc., used by a bank in its business be assessed as personal property?

A. No. Their value is included in capital stock, surplus and undivided profits unless the amount invested in such property has been charged off and in that event it should be assessed separately. This condition, however, seldom exists.

Deposits not owned by banks.

Q. Can the deposits held by a bank be assessed against the bank?

A. No. The deposits are the property of the depositors and not of the bank and are assessable against the owners thereof as money. It is immaterial that the money deposited has been loaned by the bank.

Q. Is there any limitation on the amount a state bank may invest in real estate?

A. No, but not more than 25 per cent of its capital and surplus may be invested in the banking house occupied by it.

34. Banks—List of Stockholders—In every bank and banking office there shall be kept at all times a full and correct list of the names and residences of the stockholders or owners or parties interested therein, showing the number of shares, and the amount held, owned, or controlled by each party in interest, which list shall be subject to the inspection of the officers authorized to assess property for taxation, and the accounting officer of each bank or banking institution shall furnish to the assessor a duplicate copy of such list, verified by oath, which shall be returned and filed with the county auditor. (2019).

35. Banks Without Stock—The accounting officer of every bank whose capital is not represented by shares of stock * * * when listing personal property, shall also make out and deliver to the assessor a sworn statement showing:

(1) The amount of money on hand or in transit.

(2) The amount of funds in the hands of other banks, brokers, or others subject to draft.

(3) The amount of checks or cash items not included in either of the preceding items.

(4) The amount of bills receivable, discounted or purchased, and other credits due or to become due, including accounts receivable, and interest accrued but not due, and interest due and unpaid.

(5) The amount of bonds and stocks of every kind (except United States bonds), and shares of capital stock of joint stock or other companies or corporations held as an investment, or in any way representing assets.

(6) All other property appertaining to said business, other than real estate, which shall be listed and assessed as other real estate under this chapter.

(7) The amount of all deposits made with them by other persons.

(8) The amount of all accounts payable, other than current deposit accounts.

The aggregate amount of the seventh and eighth items shall be deducted from the aggregate amount of the first, second, third, and fourth items, and the remainder, if any, shall be listed as money, under (R. L.) Sec. 835, subd. 19*. The amount of the fifth item shall be listed as bonds and stock under said section, and the sixth item shall be listed the same as other similar personal property is listed under this chapter, except that, in case of savings banks organized under the general laws of this state, the amount of the seventh and eighth items shall be deducted from the aggregate amount of the first, second, third, fourth, fifth, and sixth items, and the remainder, if any, shall be listed as credits, according to the provisions of (R. L.) Sec. 835. (2016)

36. Trust Companies Receiving Deposits Subject to Check—On or before March 1, of each year every trust company organized under the laws of this state shall pay into the county treasury of the county where its principal place of business is located five (5) per cent of its gross earnings for the preceding calendar year, which amount shall be in lieu of all taxes and assessments upon the capital stock and the personal property of such trust company; provided, however, that if any such company shall receive deposits subject to check other than trust deposits, that then such company shall be assessed in the same manner as incorporated banks are assessed, and shall pay taxes in the same manner as such banks. ('13 c. 529 Sec. 1) (20268).

Q. May a trust company taxed under this law deduct the interest received from Minnesota municipal bonds or United States government bonds from its gross earnings?

**Note*—Money and credits are now listed on a separate blank under the provisions of sections 44-59 of this manuel.

A. No. The tax is "in lieu of all taxes and assessments upon the capital stock and the personal property of such trust company," and therefore is not a tax on exempt federal or state securities, but a tax on the value of the shares of stock, the same as the tax on other bank stock.

Q. May a trust company deduct interest paid in reporting its gross earnings?

A. No.

STATE'S EXHIBIT 4.

(pages 193-195 Inclusive)

CONCLUSIONS OF THE TAX COMMISSION.

The outcome of the commission's investigations is substantially this: The attempt to tax money, credits and securities at the same rate as other classes of property has everywhere and always proved a failure. In our American states the result has been that the assessment of intangible property decreases either absolutely or relatively as wealth and population increase. We can find no exception to this general rule, and are forced to the conclusion that our present laws are at this point fundamentally wrong. Upon the other hand, it appears that two states have met with reasonable success in administering a uniform tax of moderate amount upon intangible property; and the conclusion seems inevitable that if Minnesota would tax this class of property on a plan similar to that now in operation in Pennsylvania and Maryland more revenue would be obtained with much less friction and hardship than at present.

The rate of tax which should be imposed on intangible property has been the subject of careful consideration. In Pennsylvania, as already stated, the rate is 4 mills ($4 per $1,000); in Maryland it is approximately 4.6 mills ($4.60 per $1,000). The Massachusetts commission considered these rates too high and recommended a 3 mill rate. We believe that in this matter we should be guided by the experience of other countries in taxing the income from this class of property. That experience shows that a direct tax exceeding 6 per cent of the taxpayer's income is regarded as a heavy burden and that as a rate approaches 10 per cent it leads to evasion. A tax of 4 mills upon each dollar of the valuation amounts to 6 2/3 per cent of the income from a security that yields the investor 6 per cent interest; it is 8 per cent of the income from an investment yielding 5 per cent interest; and is 10 per cent of the income from an investment yielding 4 per cent interest. This is as high a rate as we think that Minnesota could successfully impose upon a class of property the assessment of which requires the co-operation and the good will of the tax payer.

It is to be remembered that with us the tax will be assessed be local assessors. Even with such supervision as the commission can give, it is not to be supposed that we can be more successful in taxing intangible property than European governments having a highly trained civil service which is subject to strict central control. Under such conditions our tax rate should be less rather than more than the rates which those governments impose upon incomes; and the commission is confident that in the long run a tax of 4 mills will produce more revenue than a tax levied at higher rates.

A further consideration is that no small part of intangible property represents tangible property which has already been taxed either in this state or elsewhere, so that to

some extent the tax of 4 mills involves double taxation. This fact obviously affects the attitude of the taxpayer and makes it all the more desirable that our proposed tax should not be too high.

With a rate of 4 mills, we believe that the average citizen of Minnesota will cheerfully submit to taxation upon intangible property. There are doubtless in every community some persons who will try to evade any tax, however reasonable it may be; but we cannot believe that they represent the attitude of the average citizen. The experience of Pennsylvania and Maryland points to the same conclusion. No form of personal taxation can be wholly free from evasion; but the commission believes that a reasonable tax, even on intangible property, can be successfully administered in Minnesota. With a fixed rate of 4 mills, no man's tax will be larger because his neighbor evades taxation. Widows and orphans will not be compelled to contribute one-third or one-half of their income. Our assessors, when they discover taxable property, can enforce the law without feeling that they are imposing an odious and confiscatory tax. Public sentiment will heartily support the law, and tax-dodging will become unfashionable, greatly to the advantage of public and private morality. Indeed, if the tax was low enough so that large holders of such property would not be tempted for that reason to leave the state, there would be no injustice in providing that all such property not listed for taxation should be uncollectible in the courts. Such a plan would place all of the risk of evasion on the shoulder of the tax dodger, where it properly belongs, and would place a premium on honesty rather than upon dishonesty.

After a most careful investigation of the whole subject, the tax commission is convinced that the change suggested would be a long step in the right direction, but we do not

believe that so radical a departure from existing conditions should be made without the widest discussion and the fullest understanding of the whole subject by the taxpayers of the state.

STATE'S EXHIBIT 4 CONTINUED

(page 305)

CHAPTER XXIV

RECOMMENDATIONS.

The tax commission recommends that the following changes be made in the taxing system and tax laws of the state:

* * * * * * *

9. That money, credits and other intangible property be taxed at a flat rate of 4 mills on the dollar. See Chapter XVII.

STATE'S EX. 5.

Statement of Amount of Assessment and Taxes Levied on Money and Credits for the Years 1907 to 1923 inclusive.

For the Entire State

Year	Number Assessed	Amount of Assessment	Rate of Tax in Mills	Amount of Tax
1907		$ 18,559,999	25.91	$ 480,864
1908		14,647,763	26.98	395,197
1909		13,244,942	27.79	368,077
1910	† 6,200	13,919,806	28.	379,754
1911	41,439	115,676,126	3	347,025
1912	50,564	134,826,568	3	404,477
1913	57,068	156,252,274	3	468,760
1914	73,266	197,625,914	3	592,878
1915	73,062	213,078,632	3	639,249
1916	74,219	223,858,138	3	671,831**
1917	87,688	285,662,756	3	856,993
1918	98,502	330,270,597	3	991,446
1919	109,215	359,112,619	3	1,079,973
1920	127,471	443,092,869	3	1,329,365
1921	118,846	425,745,839	3	1,277,242
1922	109,081	400,960,331	3	1,202,878
*1923	113,007	413,322,619	3	1,239,968

*1923 figures based upon assessment as returned by the County Auditors of various counties.

**In addition to sum named increase of $8,373,471 tax $25,117 on estate of J. J. Hill was made.

†Estimated.

For Ramsey County

Year	Number Assessed	Amount of Assessment	Rate of Tax in Mills	Amount of Tax
1907		$ 1,382,813	29.25	$ 40,447
1908		849,692	32.20	27,360
1909		991,671	33.49	33,211
1910		2,756,850	30.20	83,251
1911	2,848	24,410,381	3	72,231
1912	3,152	25,595,161	3	76,785
1913	3,771	34,571,164	3	103,714
1914	4,550	41,860,131	3	125,580
1915	4,872	43,352,616	3	130,058
1916	5,130	48,704,976	3	146,115**
1917	5,134	62,641,448	3	187,924
1918	6,173	72,337,666	3	217,013
1919	7,028	76,867,049	3	230,601
1920	7,803	90,788,455	3	272,365
1921	7,233	84,093,488	3	252,281
1922	7,660	83,601,268	3	250,804
*1923	8,051	88,640,550	3	265,922

*1923 figures based upon assessment as returned by the County Auditors of various counties.

**In addition to sum named an increase of $8,373,-471 tax $25,117 on the estate of J. J. Hill was made.

STATE'S EX. 6.

Statement showing the total amount of the general property tax levies in Ramsey county for the years 1907 to 1922, inclusive, the amount of taxes levied on shares of National Banks in said county during the same period, and percentages that the amount of such personal property tax on said National bank bears to the whole for each of said years.

Tax Levy	Total Amount of Ramsey Co.	Amount of P. P. Tax National Banks	Percent of Total Tax
1907	$ 3,206,384	$ 85,315	2.66
1908	3,524,280	101,747	2.89
1909	3,940,326	105,425	2.68
1910	3,894,950	102,873	2.64
1911	4,017,092	106,095	2.64
1912	4,095,459	109,965	2.69
1913	4,884,358	170,931	3.50
1914	5,079,493	186,272	3.67
1915	5,824,651	194,425	3.33
1916	5,781,793	156,776	2.71
1917	5,993,339	174,694	2.92
1918	6,558,505	194,512	2.97
1919	8,858,040	283,836	3.20
1920	11,528,921	301,065	2.61
1921	10,743,064	294,219	2.74
1922	9,701,457	285,070	2.94

STATE'S EX. 7.

STATEMENT OF AMOUNT OF STATE TAXES FOR THE YEARS 1907 TO 1922 BOTH INCLUSIVE, FROM ALL SOURCES, TOGETHER WIT

PERIOD, AND PERCENTAGES THE AMOUNTS PAID BY BANKS BEAR TO T

	For 1907 Dollars	For 1908 Dollars	For 1909 Dollars	For 1910 Dollars	For 1911 Dollars	For 1912 Dollars	For 1913 Dollars	For 1914 Dollars
General Property Tax	$3,647,743	$3,546,447	$3,105,634	$3,228,038	$4,766,524	$ 4,867,427	$ 6,974,680	$ 7,115,708
GROSS EARNINGS TAXES:								
Railroad Companies	3,425,305	2,972,793	4,458,912	3,933,310	3,738,701	4,325,508	5,775,513	5,004,791
Telephone Companies	103,054	122,917	163,259	155,708	166,515	184,645	220,298	245,330
Express Companies	31,090	32,908	37,012	37,290	63,856	59,325	64,198	51,312
Sleeping Car Companies	6,057	6,340	7,362	9,372	10,274	9,741	12,745	4,511
Freight Line Companies	2,261	1,973	4,753	4,058	4,131	9,065	9,903	7,861
Inheritance Taxes	43,455	215,093	508,882	459,406	678,513	437,262	650,757	1,142,539
Insurance Company Taxes	365,294	370,665	382,419	411,752	413,260	443,235	457,873	488,429
Telegraph Company Taxes	21,610	41,992	21,916	125,222	36,450	39,150	37,800	41,300
Vessel Tonnage Taxes	16,320	17,252	21,814	19,572	15,075	24,729	19,353	20,777
Liquor License Taxes	34,579	67,201	53,753	54,613	47,843	48,848	53,146	38,976
Fire Marshal Taxes	....	....	....	....	....	....	28,978	29,366
Tax on Grain Handled	....	....	....	....	....	....	....	....
Motor Vehicle Taxes	....	....	....	....	....	....	....	....
Totals	$7,696,768	$7,395,581	$8,765,716	$8,438,341	$9,941,142	$10,448,935	$14,305,244	$14,190,900
Amount of State Tax on National Banks	$ 48,768	$ 50,113	$ 43,876	$ 45,834	$ 67,708	$ 64,309	$ 101,563	$ 81,831
Percentage of Total State Tax	.634	.678	.500	.543	.681	.615	.710	.577
Amount of State Tax on State Banks	18,379	18,009	14,447	15,161	23,224	23,186	39,659	33,620
Percentage of Total State Tax	.239	.244	.165	.180	.234	.222	.277	.237

STATE'S EX. 7.

…E, FROM ALL SOURCES, TOGETHER WITH AMOUNT OF STATE TAXES PAID BY NATIONAL AND STATE BANKS FOR THE SAME
…HE AMOUNTS PAID BY BANKS BEAR TO THE WHOLE FOR EACH YEAR.

For 1911 Dollars	For 1912 Dollars	For 1913 Dollars	For 1914 Dollars	For 1915 Dollars	For 1916 Dollars	For 1917 Dollars	For 1918 Dollars	For 1919 Dollars	For 1920 Dollars	For 1921 Dollars	For 1922 Dollars
$4,766,524	$ 4,867,427	$ 6,974,680	$ 7,115,708	$ 6,283,094	$ 5,943,940	$ 8,430,355	$ 6,272,265	$14,581,238	$11,560,892	$ 8,829,542	$ 8,335,255
3,738,701	4,325,508	5,775,513	5,004,791	5,436,573	6,144,023	6,237,571	7,532,181	7,744,310	9,062,652	7,300,568	7,641,049
166,515	184,645	220,298	245,330	251,206	275,706	298,648	310,253	358,831	423,012	471,590	658,027
63,856	59,325	64,198	51,312	51,820	58,193	62,237	74,196	105,157	129,613	115,382	81,651
10,274	9,741	12,745	4,511	24,279	29,477	31,808	30,728	41,851	82,061	52,426	60,331
4,131	9,065	9,903	7,861	19,677	11,221	8,869	51,825	21,718	21,975	28,446	30,052
678,513	437,262	650,757	1,142,539	672,814	2,594,488	873,123	683,608	1,056,687	1,074,039	966,539	1,502,185
413,260	443,235	457,873	488,429	508,823	548,911	620,935	690,515	861,393	1,075,845	1,105,539	1,112,171
36,450	39,150	37,800	41,300	19,116	21,028	23,800	26,495	29,439	33,119	35,887	35,887
15,075	24,729	19,353	20,777	17,171	19,047	19,643	2,934	54,805	5,903	28,571	48,415
47,843	48,848	53,146	38,976	43,533	38,348	25,622	11,772	....	....	....	....
....	....	28,978	29,366	29,565	30,826	34,116	38,970	45,308	54,938	46,113	49,543
....	....	....	....	....	....	....	....	110,663	67,924	67,663	77,297
....	....	....	....	....	....	....	....	....	....	5,616,114	6,509,006
$9,941,142	$10,448,935	$14,305,244	$14,190,900	$13,357,671	$15,715,208	$16,666,727	$15,725,742	$25,011,400	$23,591,973	$24,664,380	$26,140,869
$ 67,708	$ 64,309	$ 101,563	$ 81,831	$ 63,234	$ 67,111	$ 93,950	$ 69,132	$ 165,966	$ 117,764	$ 102,488	$ 100,405
.681	.615	.710	.577	.473	.427	.564	.440	.664	.499	.416	.384
23,224	23,186	39,659	33,620	32,543	31,729	47,690	34,763	85,203	65,162	50,200	44,955
.234	.222	.277	.237	.244	.202	.209	.221	.341	.276	.204	.172

STATE'S EX. 8.

ASSESSMENT BY ITEMS OF MONEY AND CREDITS FOR RAMSEY COUNTY IN 1919

	Items	Per Cent of Total	Assessor's Valuation
1.	Money subject to check and on deposit in banks, trust companies, or similar financial institutions, wherever situate..	19.73	$15,017,249
2.	Money on deposit in banks, trust companies, postal and other savings banks, or similar financial institutions, wherever the same are situate, and which is represented by certificates of deposit, cashier's checks, or similar instruments...........	1.52	1,155,595
3.	Money, other than above specified, on hand or under control of the owner or his agent, whether the same is held in this state or elsewhere	.60	458,825
4.	Promissory notes, bills of exchange, due bills, cream checks, and similar evidences of indebtedness	8.11	6,170,600
5.	Bonds, except municipal and United States bonds and such as are secured by real estate mortgages recorded in this state..	9.60	7,307,235
6.	Real estate mortgages upon lands situate outside of this state and amount secured thereby	4.67	3,553,500
7.	Real estate mortgages on lands in this state which have not been recorded and the amount secured thereby............	.22	170,665
8.	Chattel mortgages upon personal property in this state or elsewhere, and the amount secured thereby..................	1.42	1,078,385
9.	Judgments in this state or elsewhere......................	.25	187,260
10.	Book accounts	43.27	32,922,750
11.	Contracts for sale of real estate outside of this state..........	.62	467,765
12.	Contracts for sale of real estate in this state which have not been recorded	.28	216,030
13.	Annuities, royalties, and all sums of money receivable at stated periods	.20	154,645
14.	All claims and demands for money or other valuable thing not above enumerated	.32	243,410
15.	Shares of stock in corporations the property of which is not assessed or taxed in this state	9.19	6,989,510
	Total		$76,093,424

In Supreme Court of the United States

Stipulation to Amend Record—Filed November 30, 1925

It is hereby stipulated by and between the parties to the above entitled proceeding, that the record and return herein may be amended so as to include the judgment of the Supreme Court of Minnesota, entered in the above entitled action on the 25th day of November, 1925, and that said amendment may be effected by forwarding to the clerk of the United States Supreme Court, a certified copy of said judgment.

It is further stipulated that the proceedings may stand as originally docketed, and that the petition may be heard upon the record as so amended, and upon the petition and brief heretofore filed herein.

Dated this 27th day of November, 1925.

Clifford L. Hilton, Attorney General, State of Minnesota; G. A. Youngquist, Assistant Attorney General; Harry H. Peterson, County Attorney, Ramsey County; Roy A. Macdonald, Assistant County Attorney; Patrick J. Ryan, Attorneys for Petitioner. Thomas D. O'Brien, Alexander E. Horn, Edward S. Stringer, Attorneys for Respondent.

[File endorsement omitted.]

In Supreme Court of the United States

Order Allowing Certiorari—Filed December 14, 1925

The petition herein for a writ of certiorari to the Supreme Court of the State of Minnesota is granted. And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.